

UNITED STATES DISTRICT COURT

FOR THE

SOUTHERN DISTRICT OF NEW YORK

-----X
Louis Diaz, Gregory Korniloff, and :
Jack Toal, on their own behalf and :
as representatives of the Class, :
Plaintiffs, : Civil Action No. 08-cv-00401(CM)
v. :
NBC Universal, Inc. :
Defendant. :
-----X

AFFIRMATION OF DOMINIC F. AMOROSA

Dominic F. Amorosa affirms, under penalty of perjury:

1. I am an attorney for plaintiffs and the plaintiff class in this action. Plaintiffs and the plaintiff class consist of approximately 400 former Special Agents of the New York City branch of the United States Drug Enforcement Administration, also known as New York City's Drug Enforcement Agency ("**New York City's DEA**"). Plaintiffs and the plaintiff class served in that capacity at some time from 1973 through 1985.

2. I make this affirmation on information and belief except where indicated otherwise. The sources of the information in this affirmation and the memorandum of law are the attached affidavits of certain plaintiffs and another class member.

3. NBC Universal, Inc. ("**NBC Universal**"), through its wholly owned movie studio, Universal Studios, produced, released and on November 2, 2007 distributed to the public the film "American Gangster."

4. Universal Studios is identified in the film as holding the copyright to the film.

5. Universal Studios is also identified in the film as "the author of this motion picture for purposes of the Berne Convention and all national laws giving effect thereto."

6. I have personally viewed American Gangster. The opening credits to American Gangster identify the film as "BASED ON A TRUE STORY." I have also seen the False Legend, defined below, that appears at the end of American Gangster.

7. Through "American Gangster", NBC Universal falsely communicated as a true statement, in writing, to millions of people, that three quarters of New York City's Drug Enforcement Agency were convicted criminals.

8. I make this affirmation in support of plaintiffs' motion for an order directing NBC Universal to show cause why this Court should not enter a temporary restraining order, pending a hearing for a preliminary injunction, pursuant to Rule 65, Federal Rules of Civil Procedure, enjoining NBC Universal,

and all its officers and agents, servants, employees, and attorneys, and all those persons in active concert or participation with them, who receive actual notice of the order by personal service or otherwise, from

- (a) Directly or indirectly using, distributing or showing American Gangster with the legend, or any part of the legend, or otherwise conveying all or any part of the statement:

"Frank and Richie's collaboration led to the convictions of three quarters of New York City's Drug Enforcement Agency." ("False Legend"); and

- (b) Directly or indirectly using, distributing, or showing any signs, prints, packages, and advertisements bearing all or any part of the False Legend; and
- (c) Commingling with revenues from other sources than American Gangster, or disbursing the revenues generated by American Gangster, earned while the False Legend or any part of the False Legend was or continues to be advertised, used, distributed or shown in relation to American Gangster.

9. No prior application for this relief has been made.

10. By means of the False Legend, NBC Universal deliberately, callously and intentionally defames and libels *per se* plaintiffs and the members of the plaintiff class, declaring as convicted felons hundreds of honest, decent and courageous former agents of New York City's DEA.

11. Without a temporary restraining order preventing them from doing so, NBC Universal will continue to distribute and

show American Gangster with the False Legend and will continue to defame and libel plaintiffs and the plaintiff class. NBC Universal's actions have damaged, and if not enjoined will continue to irreparably damage, plaintiffs and the plaintiff class in their reputations and employment.

12. American Gangster purports to represent the alleged narcotics' trafficking activities of Frank Lucas. In the early 1970's, until his arrest on January 28, 1975 by New York City's DEA, Lucas was a major narcotics' trafficker in the New York City area. As a result of his narcotics' trafficking, Lucas became a target of New York City's DEA and the United States Attorney's Office for the Southern District of New York ("USAO").

13. After an intensive investigation, assisted by officers of the New York City Police Department ("NYPD"), New York City's DEA arrested Lucas on January 28, 1975 at his house in Teaneck, New Jersey. At the time of his arrest, Lucas' house was lawfully searched pursuant to a federal warrant and \$585,000 in currency was seized. The money was derived from the sale of narcotics.

14. Lucas was tried in September 1975 by the USAO, convicted and sentenced to 40 years' imprisonment. Subsequently, he cooperated with the USAO and with New York City's DEA and assisted in the apprehension and convictions of numerous other

narcotics' traffickers.

15. However, contrary to the False Legend, Lucas' cooperation did not lead to the conviction of a single agent of New York City's DEA, or of a single police officer of the NYPD, or of any other law enforcement official in New York or elsewhere, ever. Moreover, not a single New York City DEA agent or NYPD police officer was convicted in connection with the narcotics activity of Frank Lucas.

16. The end-credits to American Gangster claim "The Return of Superfly", an article by Mark Jacobson, is the basis of the film. Attached as Exhibit A is a copy of the article, published August 7, 2000 in New York Magazine, downloaded from the internet "1/10/08" and hand page-numbered for convenience. Referring to the search of Lucas' home on January 28, 1975, the article states at page 13:

According to Lucas, [DEA] agents took something on the order of "9 to 10 million dollars" from him that fateful evening.

17. Other than the Drug Enforcement Administration, also known as the New York City Drug Enforcement Agency, there has never been a federal or state agency known as "New York City's Drug Enforcement Agency".

18. On November 23, 2007, I wrote to Universal Studios,

wholly owned by NBC Universal, and demanded that the False Legend be removed from further distribution of American Gangster. A copy of my letter is attached to the Complaint as Exhibit 1 and incorporated by reference. The Complaint is attached as Exhibit B.

19. On December 7, 2007, David L. Burg, Senior Vice President of NBC Universal wrote to me and rejected my demand. A copy of Mr. Burg's letter is attached to the Complaint as Exhibit 2 and incorporated by reference.

20. Plaintiffs have suffered and, if NBC Universal is not enjoined from distributing the False Legend, will continue to suffer irreparable harm to their reputations and employment.

21. There is no adequate remedy at law for the past and continuing false and libelous *per se* accusation that three quarters of the members of the class, former Special Agents of New York City's DEA, are convicted felons.

22. Co-counsel has informed me that American Gangster will be released on DVD for rental from Netflix on February 19, 2008. Exhibit C.

23. Exhibit D is a true and complete but unexecuted copy of the affidavit of Arthur W. Scalzo, sworn to January ___, 2008. Mr. Scalzo has informed me that he executed the same

affidavit on January 12, 2008 and has mailed it to my office from Iraq.

24. Exhibit E is a true and complete copy of the affidavit of Gregory Korniloff, sworn to January 14, 2008.

25. Exhibit F is a true and complete copy of the affidavit of Jack Toal, sworn to January 14, 2008.

26. I have carefully read the memorandum of law in support of the application for stay, dated January 22, 2008, and the facts stated in the memorandum are accurate and complete.

27. I have watched American Gangster and the facts described in the memorandum of law in support of the TRO accurately describe the events depicted in the film.

28. For the foregoing reasons, plaintiffs' application for an Order to Show Cause should be granted.

I declare, under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed on January 22, 2008

/s/ Dominic F. Amorosa
Dominic F. Amorosa

Amorosa Affirmation Exhibit A

New York Magazine News & Features

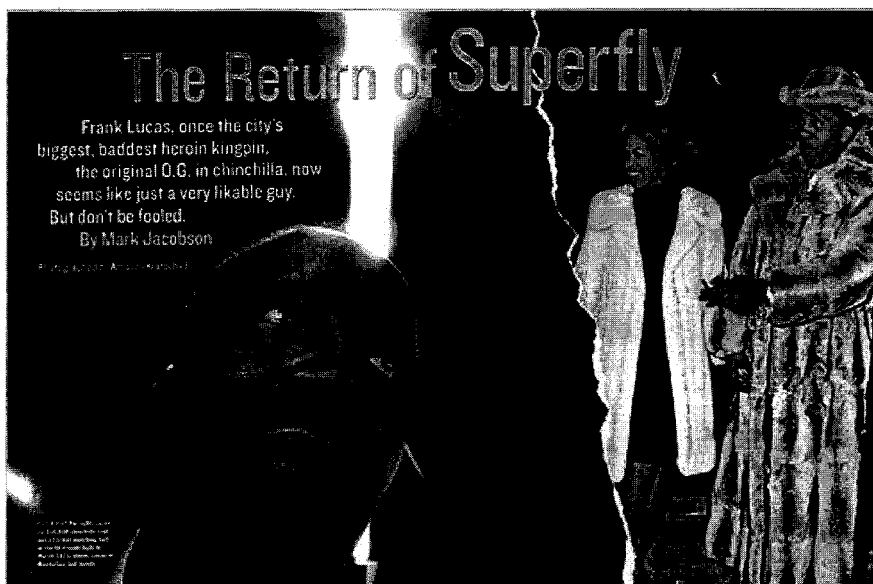
PROFILE

The Return of Superfly

Frank Lucas, once the city's biggest, baddest heroin kingpin, the original O.G. in chinchilla, now seems like just a very likable guy. But don't be fooled.

By Mark Jacobson Published Aug 7, 2000

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(Photo: New York Magazine, August 14th 2000)

During the early seventies, when for a sable-coat-wearing, Superfly-strutting instant of urban time he was perhaps the biggest heroin dealer in Harlem, Frank Lucas would sit at the corner of 116th Street and Eighth Avenue in a beat-up Chevrolet he called Nellybelle. Then living in a suite at the Regency Hotel with 100 custom-made, multi-hued suits in the closet, Lucas owned several cars. He had a Rolls, a Mercedes, a Corvette Sting Ray, and a 427 muscle job he'd once topped out at 160 mph near Exit 16E of the Jersey Turnpike, scaring himself so silly that he gave the car to his brother's wife just to get it out of his sight.

But for "spying," Nellybelle was best.

"Who'd think I'd be in a shit \$300 car like that?" asks Lucas, who claims he'd clear up to \$1 million a day selling dope on 116th Street.

"One-sixteenth Street between Seventh and Eighth Avenue was mine. I bought it. I ran it. I owned it," Lucas says. "When something is yours, you've got to be Johnny-on-the-spot, ready to take it to the top. So I'd sit in Nellybelle by the Roman Garden Bar, cap pulled down, with a fake beard, dark glasses, long wig . . . I'd be up beside people dealing my stuff, and no one knew who I was . . ."

It was a matter of control, and trust. As the leader of the heroin-dealing ring called the Country Boys, Lucas, older brother to Ezell, Vernon Lee, John Paul, Larry, and Leevan Lucas, was known for restricting his operation to blood relatives and others from his rural North Carolina area hometown. This was because, Lucas says, in his down-home creak of a voice, "a country boy, he ain't hip . . . he's not used to big cars, fancy ladies, and diamond rings. He'll be loyal to you. A country boy, you can give him any amount of money. His wife and kids might be hungry, and he'll never touch your stuff until he checks with you. City boys ain't like that. A city boy will take your last dime, look you in the face, and swear he ain't got it . . . You don't want a city boy -- the sonofabitch is just no good."

SEE ALSO:

Mark Jacobson's 2007
Conversation With Frank
Lucas and Nicky Barnes

Back in the early seventies, there were many "brands" of dope in Harlem. Tru Blu, Mean Machine, Could Be Fatal, Dick Down, Boody, Cooley High, Capone, Ding Dong, Fuck Me, Fuck You, Nice, Nice to Be Nice, Oh -- Can't Get Enough of That Funky Stuff, Tragic Magic, Gerber, The Judge, 32, 32-20, O.D., Correct, Official Correct, Past Due, Payback, Revenge, Green Tape, Red Tape, Rush, Swear to God, PraisePraisePraise, KillKillKill, Killer 1, Killer 2, KKK, Good Pussy, Taster's Choice, Harlem Hijack, Joint, Insured for Life, and Insured for Death were only a few of the brand names rubber-stamped onto cellophane bags. But none sold like Frank Lucas's Blue Magic.

"That's because with Blue Magic, you could get 10 percent purity," Lucas asserts. "Any other, if you got 5 percent, you were doing good. We put it out there at four in the afternoon, when the cops changed shifts. That gave you a couple of hours before those lazy bastards got down there. My buyers, though, you could set your watch by them. By four o'clock, we had enough niggers in the street to make a Tarzan movie. They had to reroute the bus on Eighth Avenue. Call the Transit Department if it's not so. By nine o'clock, I ain't got a fucking gram. Everything is gone. Sold . . . and I got myself a million dollars.

"I'd sit there in Nellybelle and watch the money roll in," says Frank Lucas of those near-forgotten days when Abe Beame lay his pint-size head upon the pillow at Gracie Mansion. "And no one even knew it was me. I was a shadow. A ghost . . . what we call down home a *haint* . . . That was me, the Haint of Harlem."

Twenty-five years after the end of his uptown rule, Frank Lucas, now 69, has returned to Harlem for a whirlwind retrospective of his life and times. Sitting in a blue Toyota at the corner of 116th Street and what is now called Frederick Douglass Boulevard ("What was wrong with just plain Eighth Avenue?" Lucas grouches), Frank, once by his own description "tall, pretty, slick, and something to see" but now stiff and teetering around "like a fucking one-legged tripod," is no more noticeable than when he peered from Nellybelle's window.

Indeed, few passersby might guess that Lucas, at least according to his own exceedingly ad hoc records, once had "something like \$52 million," most of it in Cayman Islands banks. Added to this is "maybe 1,000 keys of dope on hand" with a potential profit of no less than \$300,000 per kilo. Also in his portfolio were office buildings in Detroit, apartments in Los Angeles and Miami, "and a mess of Puerto Rico." There was also "Frank Lucas's Paradise Valley," a several-thousand-acre spread back in North Carolina on which ranged 300 head of Black Angus cows, including a "big-balled" breeding bull worth \$125,000.

Nor would most imagine that the old man in the fake Timberland jacket was a prime mover in what federal judge Sterling Johnson, who in the seventies served as New York City special narcotics prosecutor, calls "one of the most outrageous international dope-smuggling gangs ever . . . an innovator who got his own connection outside the U.S. and then sold the stuff himself in the street."

It was "a real womb-to-tomb operation," Johnson says, and the funerary image fits, especially in light of Lucas's most culturally pungent claim to fame, the so-called Cadaver Connection. Woodstockers may remember being urged by Country Joe & the Fish to sing along on the "Fixin' to Die Rag" -- "Be the first one on your block to have your boy come home in a box." But even the most apocalyptic-minded sixties freak wouldn't guess the box also contained a dozen keys of 98 percent-pure heroin. Of all the dreadful iconography of Vietnam -- the napalmed girl running down the road, Calley at My Lai, etc., etc. -- dope in the body bag, death begetting death, most hideously conveys 'Nam's spreading pestilence. The metaphor is almost too rich. In fact, to someone who got his 1-A in the mail the same day the NVA raised the Red Star over Hue City, the story has always seemed a tad apocryphal.

But it is not. "We did it, all right . . . ha, ha, ha . . ." Lucas chortles in his dying-crapshooter's scrape of a voice. "Who the hell is gonna look in a dead soldier's coffin? Ha ha ha."

"I had so much fucking money -- you have no idea," Lucas says, riding around Harlem, his heavy-lidded light-brown eyes turned to the sky in mock expectation that his vanished wealth, long since seized by the Feds, will rain back down from the heavens.

Aside from the hulking 369th Infantry Armory, where Lucas and his boys unloaded trucks they'd hijack out on Route 1-9, little about Harlem has remained the same. Still, nearly every block summons a

memory. Over at Eighth Avenue and 113th Street, that used to belong to Spanish Raymond Marquez, the big numbers guy. On one Lenox Avenue corner is where "Preacher got killed"; on the next is where Black Joe bought it. Some deserved killing, some maybe not, but they were all dead just the same.

In front of a blue frame house on West 123rd Street, Lucas stops and gets nostalgic. "I had my best table workers in there," he says, describing how his "table workers," ten to twelve women naked except for surgical masks, would "whack up" the dope, cutting it with "60 percent mannite and 40 percent quinine." The petite, ruby-haired Red Top was in charge. "I'd bring in three, four keys, let Red go do her thing. She'd mix up that dope like a rabbit in a hat, never drop a speck . . . Red . . . I sure do miss her . . ."

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[Comment modified by the moderator.] Lucas if you out there am comin to new york an in Uniform Kilo an b der soon am bring you ...

BY **1MRE** on 01/10/2008 at 6:36 am

am jus guna b lyk u, up early an 2 wrk

BY **1MRE** on 01/10/2008 at 6:32 am

LOOKIN BAK IN DA DAYS LUCAS AN MY DAD WERE MATES FRIENDS BT NW LUK AT ME AM BETA BUT NT BETA THAN mR LUCAS ...

BY **1MRE** on 01/10/2008 at 6:32 am

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New York Magazine News & Features

PROFILE

The Return of Superfly

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At 135th and Seventh, Lucas stops again. Small's Paradise used to be there. Back in the day, there were plenty of places -- Mr. B's, Willie Abraham's Gold Lounge, the Shalimar. But Small's was the coolest. "Everyone came by Small's . . . jazz guys, politicians. Ray Robinson. Wilt Chamberlain, when they called the place Big Wilt's Small's Paradise . . ." At Small's, Lucas often met his great friend the heavyweight champ Joe Louis, who later appeared nearly every day at Lucas's various trials, expressing outrage at how the state was harassing "this beautiful man." When the Brown Bomber died, Lucas, who once paid off a \$50,000 tax lien for the champ, was heard weeping into a telephone, "my daddy . . . he's dead." It was also at Small's, on a winter's night in the late fifties, that Frank Lucas encountered Howard Hughes.

"He was right there, with Ava Gardner . . . Howard Hughes, the original ghost -- that impressed me."

In the end, the tour comes back to 116th Street. It's now part of Harlem's nascent real-estate boom, but when Frank "owned" this street, "you'd see junkies, nodding, sucking their own dicks . . . heads down in the crotch. People saw that, they knew that shit was good."

A moment later, Lucas looks up. "Uh-oh, here come the gangstas," he shouts in mock fright, as a trio of youths, blue kerchiefs knotted around their heads, go by blaring rap music. Lucas is no fan of "any Wu-Tang this and Tupac that." Likewise, Lucas, who thought nothing of spending \$50,000 on a chinchilla coat and \$10,000 on a matching hat, doesn't go for the current O.G. styles. "Baggy-pants bullshit" is his blanket comment on the thug-life knockoffs currently in homeboy favor.

"I guess every idiot gets to be young once," Lucas snaps, driving half a block before slamming on the brakes.

*"Then he broke for me, but he was too late. I shot him, four times,
bam, bam, bam, bam."*

"Here's something you ought to see," the gangster says, pointing toward the curb between the Canaan Baptist Church and the New Africa House of Fish. "There's where I did that boy . . . Tango," he sneers, his large, squarish jaw lanterning forward. "I told you about that, didn't I?"

Of course he had, only days before, in minute, hair-raising detail.

For Lucas, the incident, which occurred in "the summer of 1965 or '66," was strategy. Strictly business. Because, as Lucas recalls, "when you're in the kind of work I was in, you've got to be for real. You've got to show what you're willing to do."

"Everyone, Goldfinger Terrell, Willie Abraham, Hollywood Harold, was talking about this big guy, this Tango. About six five, 270 pounds, quick on his feet . . . He killed two or three guys with his hands. Had this big bald head, like Mr. Clean. Wore those Mafia undershirts. Everyone was scared of him. So I figured, Tango, you're my man.

"I went up to him, asked him if he wanted to do something, some business. I gave him \$5,000 worth of merchandise. Because I know he was gonna fuck up. That's the kind of guy he was. Two weeks later, I go talk to him. 'Look, man,' I say. 'Hey, man, when you gonna pay me?'

"Then, like I knew he would, he started getting hot, going into one of his gorilla acts. He was one of them silverback gorillas, you know, you seen them in the jungle. A silverback gorilla, that's what he was.

"He started cursing, saying he was going to make me his bitch and he'd do the same to my mama too.

Well, as of now, he's dead. No question, a dead man. But I let him talk. A dead man got a right to say what he wants. Now the whole block is there, to see if I'm going to pussy out. He was still yelling. So I said to him, 'When you get through, let me know.' "

"Then the motherfucker broke for me. But he was too late. I shot him. Four times, right through here: *bam, bam, bam, bam.*

"Yeah, it was right there," says Frank Lucas, 35 years after the shooting, pointing out the car window. "The boy didn't have no head. The whole shit blowed out back there . . . That was my real initiation fee into taking over completely down here. Because I killed the baddest motherfucker. Not just in Harlem but in the world."

Then Frank laughs.

Frank's laugh: It's a trickster's sound, a jeer that cuts deep. First he rolls up his shoulders and cranes back his large, angular face, which, despite all the wear and tear, remains strikingly handsome, even empathetic in a way you'd like to trust but know better. Then the smooth, tawny skin over his cheekbones creases, his ashy lips spread, and his tongue snakes out of his gate-wide mouth. Frank has a very long, very red tongue. Only then the soundtrack kicks in, staccato stabs of mirth followed by a bevy of low rumbled cackles.

Ha ha ha, siss siss siss. For how many luckless fools like Tango was this the last sound they heard on this earth?

Hearing tapes of our conversations, my wife leaned back in her chair. "Oh," she said, "you're doing a story on Satan . . ." She said it was like hearing the real interview with a vampire.

"After I killed that boy," Frank Lucas goes on, gesturing toward the corner on the other side of 116th Street, "from that day on, I could take any amount of money, set it on the corner, and put my name on it. FRANK LUCAS. I guarantee you, nobody would touch it."

Then Frank laughs again, putting a little extra menace into it. This is just so you don't get too comfortable with the assumption that your traveling partner is nothing but a limping old guy with a gnarled hand fond of telling colorful stories and wearing \$5 acetate shirts covered with *faux* nascar logos.

Just so you never forget exactly who you are dealing with.

When asked about the relative morality of killing people, selling millions of dollars of dope, and playing a significant role in the destruction of the social fabric of his times, Frank Lucas bristles. What choice did he have? he demands. "Kind of sonofabitch I saw myself being, money I wanted to make, I'd have to be on Wall Street. On Wall Street, from the giddy-up. But I couldn't have even gotten a job being a fucking janitor on Wall Street."

Be that as it may, there's little doubt that when, on a sweltering summer's afternoon in 1946, Frank Lucas arrived in Harlem, which he'd been told was "the promised land," his prospects in the legitimate world were limited. Not yet 16 years old, he was already on the run. Already a gangster.

It couldn't have been any other way, Lucas insists, after the Ku Klux Klan came to the shack where he grew up and killed his cousin. "I couldn't have been more than 6. We were living back in the woods near a little place they call La Grange, North Carolina. These five white guys come up to the house one morning, big rednecks . . . they're yelling, 'Obadiah . . . Obadiah Jones . . . come out. Come out, you nigger . . .' They said he was looking at a white girl walking down the street. 'Reckless eyeballing,' they call it down there.

"Obadiah was like 12 or 13, and he come out the door, all sleepy and stuff. 'You been looking at somebody's daughter. We're going to fix you,' they said. They took ropes on each hand, pulled them tight in opposite directions. Then they shoved a shotgun in Obadiah's mouth and pulled the trigger."

It was then, Lucas says, that he began his life of crime. "I was the oldest. Someone had to put food on the table. I started stealing chickens. Knocking pigs on their head . . . It wasn't too long that I was going over to La Grange, mugging drunks when they come out of the whorehouse. They'd spent their \$5 or \$6 buying ass, head jobs, then I'd be waiting with a rock in my hand, a tobacco rack, anything."

By the time he was 12, "but big for my age," Lucas says, he was in Knoxville, Tennessee, locked up on a chain gang. In Lexington, Kentucky, not yet 14, he lived with a lady bootlegger. In Wilson, North Carolina, working as a truck driver at a pipe company, he started in sleeping with the owner's daughter. This led to problems, especially after "Big Bill, a fat, 250-pound beer-belly bastard" caught them in the act. In the ensuing fight, Frank hit Bill on the head with a piece of pipe, laying him out.

"They didn't owe me but \$100, but I took \$400 and set the whole damned place on fire." Told by his mother to run and keep running, he bummed his way northward.

"I got to 34th Street. Penn Station. Then took the bus to 14th Street. I went over to a policeman and said, 'Hey, this ain't 14th Street. I want to go where all the black people are at.' He said, 'You want to go to Harlem . . . 114th Street!'

"I got to 114th Street. I had never seen so many black people in one place in all my life. It was a world of black people. "And I just shouted out: 'Hello, Harlem . . . hello, Harlem, USA!'" "

People told him to be smart, get a job as an elevator operator. But once Frank saw guys writing policy numbers, carrying big wads, his course was set. Within a few months, he was a one-man, hell-bent crime wave. He stuck up the Hollywood Bar on Lenox and 116th, got himself \$600. He went to the Busch Jewelers on 125th Street, stole a tray of diamonds, broke the guard's jaw with brass knuckles on the way out. Later, he ripped off a high-roller crap game at the Big Track Club on 110th. "They was all gangsters in there, Cool Breeze, a lot of them. I walked in, took their money. Now they was all looking for me."

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New York Magazine News & Features

PROFILE

The Return of Superfly

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The way he was going, Frank figures, it took Ellsworth "Bumpy" Johnson, the most famous of all Harlem gangsters, to save his life. "I was hustling up at Lump's Pool Room, on 134th Street. Eight-ball and that. So in comes Icepick Red. Red, he was a tall motherfucker, clean, with a hat. A fierce killer, from the heart. Freelanced Mafia hits. Anyway, he took out a roll of money that must have been that high. My eyes got big. I knew right then, that wasn't none of *his* money. That was *my* money . . .

"Who got a thousand dollars to shoot pool?" Icepick Red shouted. I told him I'm playing, but I only got a hundred dollars . . . and he's saying, 'What kind of punk only got a hundred dollars?' I wanted to take out my gun and kill him right there, take his damn money.

"Except right then, everything seemed to stop. The jukebox stopped, the pool balls stopped. Every fucking thing stopped. It got so quiet you could've heard a rat piss on a piece of cotton in China.

"I turned around and I saw this guy -- he was like five feet ten, five feet eleven, dark complexion, neat, looked like he just stepped off the back cover of *Vogue* magazine. He had on a gray suit and a maroon tie, with a gray overcoat and flower in the lapel. I never seen nothing that looked like him. He was another species altogether.

"Can you beat him?" he said to me in a deep, smooth voice.

"I said, 'I can shoot pool with anybody, mister. I can beat anybody.'

"Icepick Red, suddenly he's nervous. Scared. 'Bumpy!' he shouts out, 'I don't got no bet with you!'

"Bumpy ignores that. 'Rack 'em up, Lump!'

"We rolled for the break, and I got it. And I wasted him. Icepick Red never got a goddamn shot. Bumpy sat there, watching. Didn't say a word. Then he says to me, 'Come on, let's go.' I'm thinking, who the fuck is this Bumpy? But something told me I better keep my damn mouth shut. I got in the car. A long Caddy. First we stopped at a clothing store -- he picked out a bunch of stuff for me. Suits, ties, slacks. Nice stuff. Then we drove to where he was living, on Mount Morris Park. He took me into his front room, said I should clean myself up, sleep there that night.

"I wound up sleeping there six months . . . Then things were different. The gangsters stopped fucking with me. The cops stopped fucking with me. I walk into the Busch Jewelers, see the man I robbed, and all he says is: 'Can I help you, sir?' Because now I'm with Bumpy Johnson -- a Bumpy Johnson man. I'm 17 years old and I'm *Mr.* Lucas.

"Bumpy was a gentleman among gentlemen, a king among kings, a killer among killers, a whole book and Bible by himself," says Lucas about his years with the so-called Robin Hood of Harlem, who had opposed Dutch Schultz in the thirties and would be played by Moses Gunn in the original *Shaft* and twice by Laurence Fishburne (in *The Cotton Club* and *Hoodlum*).

"He saw something in me, I guess. He showed me the ropes -- how to collect, to figure the vig. Back then, if you wanted to do business in Harlem, you paid Bumpy or you died. Extortion, I guess you could call it. Everyone had to pay -- except the mom-and-pop stores."

With Bumpy, Frank caught a glimpse of the big time. He'd drive downtown, to the 57th Street Diner, waiting by the car while his boss ate breakfast with Frank Costello. Frank accompanied Bumpy to Cuba to see Lucky Luciano. "I stayed outside," Frank remembers, "just another guy with a bulge in my pocket."

"There was a lot about Bumpy I didn't understand, a lot I still don't understand . . . when he was older, he'd lean over his chessboard in his apartment at the Lenox Terrace, with these Shakespeare books

around, listening to soft piano music, Beethoven -- or that Henry Mancini record he played over and over, 'Baby Elephant Walk' . . . He'd start talking about philosophy, read me from Tom Paine, 'The Rights of Man' . . . 'What do you think of that, Frank?' he'd ask . . . I'd shrug. What could I say? Best book I remember reading was Harold Robbins's *The Carpetbaggers*."

In the end, as Frank tells it, Bumpy died in his arms: "We were at Wells Restaurant on Lenox Avenue. Billy Daniels, the singer, might have been there. Maybe Cockeye Johnny, J.J., Chickenfoot. There was always a crowd around, wanting to talk to him. Bumpy just started shaking and fell over."

Three months after Martin Luther King's assassination, the headline in the *Amsterdam News* said BUMPY'S DEATH MARKS END OF AN ERA. Bumpy had been the link back to the wild days of people like Madame St. Clair, the French-speaking Queen of Policy, and rackets wizard Casper Holstein, who reportedly aided the careers of Harlem Renaissance writers. Also passing from the scene were characters like Helen Lawrenson, a *Vanity Fair* editor whose tart account of her concurrent affairs with Condé Nast, Bernard Baruch, and Ellsworth "Bumpy" Johnson can be found in the long-out-of-print *Stranger at the Party*.

Lucas says, "There wasn't gonna be no next Bumpy. Bumpy believed in that share-the-wealth. I was a different sonofabitch. I wanted all the money for myself . . . Harlem was boring to me then. Numbers, protection, those little pieces of paper flying out of your pocket. I wanted adventure. I wanted to see the world."

A few days after our Harlem trip, drinking Kirins in a fake Benihana, Frank told me how he came upon what he refers to as his "bold new plan" to smuggle heroin from Southeast Asia to Harlem. It is a thought process Lucas says he often uses when on the verge of a "pattern change."

First he locks himself in a room, preferably in a hotel in Puerto Rico, shuts off the phone, pulls down the blinds, has his meals delivered, and does not speak to a soul for a couple of weeks. In this meditative isolation, Lucas engages in what he calls "backtracking . . . I think about everything I done in the past five years, look in each nook and cranny, down to what I put on my toast in the morning."

Having vetted the past, Lucas begins to "forward-look . . . peering around every bend in the road ahead." It is only then, he says, "when you can see back to Alaska and ahead as far as South America . . . and know nothing, not even the smallest hair on a cockroach's dick, can stand in your way" -- that you are ready to make your next big move.

If he really wanted to become "white-boy rich, Donald Trump rich," Lucas thought, he'd have to "cut out the guineas." He'd learned as much working for Bumpy, picking up "packages" from Fat Tony Salerno's Pleasant Avenue guys, men with names like Joey Farts and Kid Blast: "I needed my own supply. That's when I decided to go to Southeast Asia. Because the war was on, and people were talking about GIs getting strung out over there. I knew if the shit is good enough to string out GIs, then I can make myself a killing."

Lucas, traveling alone, had never been to Southeast Asia, but he felt confident. "Because I knew it was a street thing over there. You see, I never went to school even for a day, but I got a Ph.D. in street. When it comes to a street atmosphere, I know I'm going to make out."

Checked into the Dusit Thani Hotel in Bangkok, Lucas soon hailed a motorcycle taxi to take him to Jack's American Star Bar, an R&R hangout for black soldiers. Offering ham hocks and collard greens on the first floor and a wide array of hookers and dope connections on the second, the Soul Bar, as Frank calls it, was run by the former U.S. Army sergeant Leslie "Ike" Atkinson, a country boy from Goldsboro, North Carolina, who happened to be married to one of Frank's cousins, which made him as good as family.

"Ike knew everyone over there, every black guy in the Army, from the cooks on up," Frank says. It was this "army inside the Army" that would serve as the Country Boys' international distribution system, moving heroin shipments almost exclusively on military planes routed to Eastern Seaboard bases. Mostly these were draftees and enlisted men, but "there were also generals and colonels, guys with eagles and chickens on the collars, white guys and South Vietnamese too," Lucas swears. "These were the greediest motherfuckers I ever dealt with. They'd send people out to get their ass shot up but do anything if you gave them enough money," says Frank who, as part of his scam if need be, would dress

up as a lieutenant colonel himself. "You should have seen me -- I could really salute."

Lucas soon located his main overseas connection, an English-speaking, Rolls-Royce-driving Chinese gentleman who went by the sobriquet 007. "I called him 007 because he was a fucking Chinese James Bond." Double-oh Seven took Lucas upcountry, to the Golden Triangle, the heavily jungled, poppy-growing area where Thailand, Burma, and Laos come together.

"It wasn't too bad, getting up there," says Lucas. "We was in trucks, in boats. I might have been on every damn river in the Golden Triangle. When we got up there, you couldn't believe it. They've got fields the size of Tucson, Arizona, with nothing but poppy seeds in them. There's caves in the mountains so big you could set this building in them, which is where they do the processing . . . I'd sit there, watch these Chinese paramilitary guys come out of the mist on the green hills. When they saw me, they stopped dead. They'd never seen a black man before."

Likely dealing with remnants of Chiang Kai-shek's defeated Kuomintang army, Lucas purchased 132 kilos that first trip. At \$4,200 per unit, compared with the \$50,000 that Mafia dealers charged Stateside competitors, it would turn out to be an unbelievable bonanza. But the journey was not without problems.

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New York Magazine News & Features

PROFILE

The Return of Superfly

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"Right off, guys were stepping on little green snakes, dying on the spot. Then guess what happened? *Banditos!* Those motherfuckers came right out of the trees. Trying to steal our shit. The guys I was with -- 007's guys -- all of them was Bruce Lees. Those sonofabitches were good. They fought like hell.

"I was stuck under a log firing my piece. Guys were dropping. You see a lot of dead shit in there, man, like a month and a half of nightmares. I think I ate a damn dog. I was in bad shape, crazy with fever. Then people were talking about tigers. I figured, that does it. I'm gonna be ripped up by a tiger in this damn jungle. What a fucking epitaph . . . But we got back alive. Lost half my dope, but I was still alive."

It is a fabulous cartoon, an image to take its place in the easy-riding annals of the American dope pusher -- the Superfly in his Botany 500 sportswear down in the malarial muck, clutching his 100 keys, *Sierra Madre*-style, bullets whizzing overhead. "It was the most physiological thing I done and hope not to again," says Lucas.

Throughout it all, Lucas swears, he remained a "100 percent true-blue, red-white-and-blue patriotic American." Details concerning the dope-in-the-body-bags caper have been wildly misrepresented, he says, stories that he and Ike Atkinson actually stitched the dope inside the body cavities of the dead soldiers being nothing but "sick cop propaganda."

"No way I'm touching a dead anything. Bet your life on that."

"Kissinger. Wonder what he'd do if he knew he'd helped smuggle dope into the country?"

What really happened, he says, was that he and Ike flew a country-boy North Carolina carpenter over to Bangkok. "We had him make up 28 copies of the government coffins . . . except we fixed them up with false bottoms, big enough to load up with six, maybe eight kilos . . . It had to be snug. You couldn't have shit sliding around. Ike was very smart, because he made sure we used heavy guys' coffins. He didn't put them in no skinny guy's . . ."

Of the dozens of smuggling operations he ran from Asia, Frank still rates "the Henry Kissinger deal" as an all-time favorite. To hear Frank tell it, he and Ike were desperate to get 125 keys out of town, but there weren't any "friendly" planes scheduled leaving. "All we had was Kissinger. He was on a mercy mission on account of big cyclones in Bangladesh. We knew a cook on the plane and gave \$100,000 to some general to look the other way. I mean, who the fuck is gonna search fucking Henry Kissinger's plane?

". . . Henry Kissinger! Wonder what he'd say if knew he helped smuggle all that dope into the country? . . . *Hoo hahz poot zum dope in my aero-plan?* Ha ha ha . . ."

During the dope-plague days of the late sixties and early seventies, when the Feds (over)estimated that half the country's heroin addicts were in New York and 75 percent of those in Harlem, the *Amsterdam News* reported what 116th Street was like during the reign of Frank Lucas. "We're being destroyed by dope and crime every day," said Lou Broders, who ran an apparel shop at 253 West 116th Street. "It's my own people doing it, too. That's the pity of it. This neighborhood is dying out."

In the face of such talk, Frank, who recalls the 1967 riots as "no big thing," exhibits typically willful obliviousness. "It's not my fault if your television got stolen," he says. "Besides, Harlem was great then. It wasn't until they put me and Nicky Barnes in jail that the city went into default. There was tons of money up in Harlem in 1971, 1972 -- if you knew how to get it. Shit, those were the heydays."

To hear Frank tell it, life as a multimillionaire dope dealer was a whirl of flying to Paris for dinner at Maxim's, gambling in Vegas with Joe Louis and Sammy Davis Jr., spending \$140,000 on a couple of Van Cleef bracelets, and squiring around his beautiful mistress -- Billie Mays, step-daughter of Willie, who, according to Lucas, he'd snaked away from Walt "Clyde" Frazier. The grotty 116th Street operation was left in the hands of trusted lieutenants. If problems arose, Lucas says, "we'd have 500 guns in the street in 30 minutes, ready to hit the mattress."

Frank's money-laundering routine consisted of throwing duffel bags filled with cash into the back seat of his car and driving to a Chemical Bank on East Tremont Avenue in the Bronx. Most of the money was sent to Cayman Island banks; if Frank needed a little extra, he'd read the newspaper in the lobby while bank managers filled a duffel with crisp \$100 bills. For their part in the scheme, Chemical Bank would eventually plead guilty to 200 misdemeanor violations of the Bank Secrecy Act.

As Bumpy had once run the Palmetto Chemical Company, a roach-exterminating concern, Frank opened a string of gas stations and dry cleaners: "I had a dry-cleaning place on Broadway, next to Zabar's. Once I had to go behind the counter myself. And you know I ain't no nine-to-five guy. These old ladies kept coming in, shoving these shirts in my face, screaming, 'Look at this spot' . . . I couldn't take it. I just ran out of the place, didn't lock up or even take the money out of the cash register."

Show business was more to Frank's taste, especially after he and fellow Harlem gangster Zack Robinson began hanging out at Lloyd Price's Turntable, a nightclub at 52nd Street and Broadway. "There'd be Muhammad Ali, members of the Temptations, James Brown, Berry Gordy, Diana Ross," says Frank, who calls the Turntable "a good scene -- the integration crowd was there, every night."

In 1970, Price, a Rock and Roll Hall of Famer who'd had huge hits with tunes like "Personality" and "Lawdy Miss Clawdy," decided to make a gangster movie, *The Ripoff*, set on the streets of New York.

"The idea was to get real, practicing gangsters to play themselves," Price remembers. "We needed the villain romantic lead, the guy with the sable coat and the hat, so I thought, why not get Frank?"

"It was like *Shaft* before *Shaft*," says Lucas. "All the cars in the picture was mine. We did a scene with me chasing Lloyd, shooting out the window of a Mercedes on the West Side Highway. I put 70, 80 grand into the movie. It was real fun."

Never finished, the footage missing, *The Ripoff* qualifies as the Great Lost Film of the blaxploitation genre. "A lot of strange things happened making *The Ripoff*," says Lloyd Price. "Once, we went over to the editing room. Frank didn't like the director. 'You want to cut, I'll show you how to cut,' he said, pulling out his knife. 'Frank, man,' I told him, 'this isn't the way they do it in the movie business.'"

A drug kingpin attracts attention from the police, and according to Lucas, most of his trouble came from the NYPD's infamously corrupt Special Investigations Unit. Known for its near-unlimited authority, the SIU wrote its own mighty chapter in the crazy-street-money days of the early-seventies heroin epidemic; by 1977, 52 out of 70 officers who'd worked in the unit were either in jail or under indictment.

The worst of the SIU crew, Lucas says, was Bob Leuci, the main player in Robert Daley's best-selling *Prince of the City*. Says Frank: "We called him Babyface, and he had the balls of a gorilla. He'd wait outside your house and fuck with you." Once, according to Lucas, Leuci caught him with several keys of heroin and cocaine in his trunk. "This is gonna cost you," the detective supposedly said after taking Lucas down to the station house. The two men then reportedly engaged in a heated negotiation, Lucas offering 30 grand, Leuci countering with "30 grand and two keys." Seeing no alternative, Lucas said, "Sold!"

"That's why I had to move downtown," wails Frank. "To duck Babyface."

Lucas likewise expresses no love for his more famous Harlem dope-dealer rival Nicky Barnes, who rankled the older pusher by appearing on the cover of *The New York Times Magazine* in his trademark gogglelike Gucci glasses, bragging that he was "Mr. Untouchable." The brazen assertion soon got then-president Jimmy Carter on the telephone demanding that something be done about the Harlem dope trade. "Talk about bringing the heat," the Country Boy moans.

According to Lucas, it was Barnes's "delusions of grandeur" that led to a bizarre chance meeting

between the two drug lords in the lingerie department of Henri Bendel on 57th Street. "Nicky wanted to make this black-Mafia thing called the Council. An uptown Cosa Nostra. The Five Families of Dope. I didn't want no part of it. Because before long, everyone's gonna think they're Carlo Gambino. That's trouble.

"Anyway, I'm with my wife at Henri Bendel's, and who comes up? Nicky fucking Barnes! 'Frank,' he's going, 'we got to talk . . . we got to get together on this Council thing.' I told him forget it, my wife is trying on underwear -- can't we do this some other time? He says, 'Hey, Frank, I'm short this week, can you front me a couple of keys?' That's Nicky."

Lucas says he thought about quitting "all the time." His wife, Julie, whom he met on a "backtracking" trip in Puerto Rico, begged him to get out, especially after Brooklyn dope king Frank Matthews jumped bail in 1973, never to be heard from again. "Some say he's dead, but I know he's living in Africa, like a king, with all the fucking money in the world," Lucas sighs. "Probably I should have stayed in Colombia. Always liked Colombia. But I had my heart set on getting a jet plane . . . there was always something."

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For Lucas, the inevitable came on January 28, 1975, when an NYPD/DEA strike force, acting on a tip from two Pleasant Avenue guys, staged a surprise raid on his house in a leafy neighborhood of Teaneck, New Jersey. In the ensuing panic, Julie Lucas, screaming "Take it all, take it all," tossed several suitcases out the window. The cases were found to contain \$584,000 in the rumpled bills Lucas refers to as "shit street money." Also found were keys to Lucas's Cayman Islands safe-deposit boxes, property deeds, and a ticket to a United Nations ball, compliments of the ambassador of Honduras.

"Those motherfuckers just came in," Lucas says now, sitting in a car across the street from the split-level house where he played pickup games with members of the Knicks. For years, he has contended that the cops took a lot more than \$585,000 from him. "Five hundred eighty-five thousand, what's that? Shit. In Vegas, I'd lose 500 G's playing baccarat with a green-headed whore in half an hour." According to Lucas, agents took something on the order of "9 to 10 million dollars" from him that fateful evening. To bolster his claim, he cites passing a federally administered polygraph test on the matter. A DEA agent on the scene that night, noting that "\$10 million in crumpled \$20 bills isn't something you just stick in your pocket," vigorously denies Lucas's charge.

Whatever. Frank doesn't expect to see his money again: "It's just too fucking old -- old and gone."

A few days later, I brought Lucas a copy of his newspaper-clip file, detailing the Country Boy's long and tortuous interface with the criminal-justice system, a period in which he would do time in nearly a dozen state and federal joints. Lucas silently thumbed through dog-eared headlines like COUNTRY BOYS, CALLED NO. 1 HEROIN GANG IS BUSTED; 30 COUNTRY BOYS INDICTED IN \$50M HEROIN OPERATION. There was also an October 25, 1979, *Post* story entitled CONVICT LIVES IT UP WITH SEX AND DRUGS, quoting a Metropolitan Correctional Center prisoner named "Nick," convicted killer of five, whining that Lucas had ordered prostitutes up to his cell and was "so indiscreet about it I had to have my wife turn the other way . . . he didn't give one damn about anyone else's feelings."

One clip, however, did engage Frank's attention. Titled EX-ASSISTANT PROSECUTOR FOR HOGAN SHOT TO DEATH IN VILLAGE AMBUSH, the November 5, 1977, *Times* story tells how Gino E. Gallina, then a Pelham Manor mouthpiece for "top drug dealers and organized-crime figures," was rubbed out "mob style . . . as many passersby looked on in horror" one nippy evening at the corner of Carmine and Varick Streets.

"You gonna make me out to be the devil, or what? Am I going to Heaven or hell?"

Lucas reckons he must have spent "millions" on high-priced criminal lawyers through the early eighties. Gino Gallina, however, was the only lawyer Lucas ever physically assaulted, the incident occurring in the visiting room of the Rikers Island prison. Lucas had reputedly given Gallina a large payoff to fix a case, \$200,000 of which became "lost." Upon hearing this, Lucas, said the *Daily News*, "leaped across the table in the visitors' pen and began punching Gallina savagely."

Acknowledging that he told Gallina "if I didn't get my money in 24 hours he was a dead man" and asserting that the lawyer "did not deserve to live," Frank still steadfastly maintains he has "no idea at all" about who murdered Gallina.

What Lucas will absolutely not talk about is how he got out of jail, the stuff described in clips like a Newark *Star-Ledger* piece from 1983 entitled 'HELPFUL' DRUG KINGPIN GRANTED REDUCED TERM, in which Judge Leonard Ronco of Newark is reported as cutting in half Lucas's 30-year New

Jersey stretch. This followed the previous decision by U.S. District Court judge Irving Ben Cooper, who "granted the unusual request of Dominic Amorosa, chief of the Southern District Organized Crime Strike Force, to reduce Lucas's 40-year New York prison sentence to time already served."

"I ask two things," Lucas demanded in our first meeting. "One, if they are slamming bamboo rods beneath your fingernails with ball-peen hammers, do not reveal where you saw me; and two, none of that bullshit about being buddy-buddy with the cops. That is out . . ." Then, so there was no mistake, he added, "Don't cross me on this, because I am a busy man and have no time, no time whatsoever, to go to your funeral."

Still, it was hard to let it go. How was I supposed to explain how he wound up serving less than nine years? To this, Frank replied: "I know I have that mark on me. I was always playing games with them. Go back and look -- I never, ever testified against anyone in court. Not once."

Then finally, Frank said, "Look, all you got to know is that I am sitting here talking to you right now. Walking and talking -- when I could have, should have, been dead and buried a hundred times. And you know why that is?

"Because: People like me. People like the fuck out of me." This was his primary survival skill, said the former dope king: his downright friendliness, his upbeat demeanor. "All the way back to when I was a boy, people have always liked me. I've always counted on that."

That much was apparent when I went to the Eastern District federal court to see Judge Sterling Johnson, the former narcotics prosecutor instrumental in putting the Country Boy behind bars.

Frank told me to look up Johnson, whom he calls "Idi Amin." "Judge Johnson likes me a lot. You'll see," he said.

Johnson greeted me with a burnished dignity befitting a highly respected public official. "This is Judge Johnson," he said. When I mentioned the name Frank Lucas, Johnson became notably more familiar. "Frank Lucas? Is that mother still living?!" A few days later, chatting in his stately chambers, the judge told me to call Lucas up.

"Get that old gangster on the phone," Johnson demanded, turning on the speaker.

Lucas answered with his usual growl. "This is Frank. Who's this?"

Johnson mentioned a name, someone apparently dead, likely snuffed by a Country Boy or two. This got Lucas's attention. "What? Who gave you this number?"

"Top!"

"Top who?"

"Red Top!" Johnson said, invoking the name of Lucas's beloved chief dope cutter.

"Red Top don't got my number . . ." It was around then that Frank figured it out.

"Judge Johnson! You dog! You still got that stick?" Johnson reached under his desk, pulled out a beat cop's nightstick, and slapped it into his open palm loud enough for Lucas to hear it. "Better believe it, Frank!"

"Stop that! You're making me nervous, Judge Johnson!" Lucas exclaimed before gingerly inquiring, "Hey, Judge, they ever get anyone in that Gallina thing?"

Johnson laughed and said, "Oh, Frank. You know you did it."

Smiling through Lucas's denials, Johnson said, "Well, come down and see me. I'm about the only fly in the buttermilk down here."

After he hung up, Johnson chortled, "That Frank. He's a pisser."

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"You know, when we were first investigating him, the FBI, DEA, they didn't think he could pull off that Southeast Asia stuff. They wouldn't let themselves believe an uneducated black man could come up with such a sophisticated smuggling operation. In his sick way, he really did something."

The memory clearly tickled Johnson, who quickly added, "Look, don't get me wrong: Frank was as bad as they come. You should never forget who these people really are. But what are you going to do? The guy was a pisser. A pisser and a killer. Easy to like. A lot of those guys were like that. It is an old problem."

A couple of days later, eating at a T.G.I. Friday's, Lucas scowled through glareproof glass to the suburban strip beyond. "Look at this shit," he said. A giant Home Depot down the road especially bugged him. Bumpy Johnson himself couldn't have collected protection from a damn Home Depot, he said with disgust. "What would Bumpy do? Go in and ask to see the assistant manager? Place is so big, you get lost past the bathroom sinks. But that's the way it is now. You can't find the heart of anything to stick the knife into."

Then Frank turned to me and asked, "You gonna make me out to be the devil, or what? Am I going to Heaven or hell?"

As far as Frank was concerned, his place in the hereafter was assured after he joined the Catholic Church while imprisoned at Elmira. "The priest there was getting crooks early parole, so I signed up," he says. As backup, Frank was also a Baptist. "I have praised the Lord," he says. "Praised Him in the street and praised Him in the joint. I know I'm forgiven, that I'm going to the good place, not the bad."

But what did I think? How did I see it going for the Country Boy beyond this world? It was a vexing question, as Sterling Johnson said. Who knew about these things? Frank was a con man, one of the best. He'd been telling white people, cops and everyone else, pretty much what they wanted to hear for decades, so why should I be different? It was true: I liked him. I liked the fuck out of him. Especially when he called his 90-year-old church-lady Hulk Hogan-fan mother, which he did about five times a day. But that wasn't the point.

Braggart, trickster, and fibber along with everything else, Lucas was nonetheless a living, breathing historical figure, a highly specialized font of secret knowledge, more exotic, and certainly less picked over, than any Don Corleone. He was a whole season of the black *Sopranos* -- old-school division. The idea that a backwoods boy could maneuver himself into position to tell at least a plausible lie about stashing 125 kilos of *zum dope* on Henry Kissinger's plane -- much less actually do it -- mitigated a multitude of sins.

In the end, even Lucas's resounding lack of repentance didn't seem to matter. About the only flicker of remorse I'd seen from him occurred following a couple of beers we had with one of his brothers, Vernon Lee, who is known as Shorty.

A bespectacled man now in his early fifties, Shorty followed Frank to Harlem in 1965. "We came up from Carolina in a beat-up car, the brothers and sisters, Mom and Dad, with everything we owned, like the Beverly Hillbillies." From the start, Shorty knew what he wanted. "Diamond rings, cars, women. But mostly it was the glory. Isn't that what most men really dream of? The glory."

Then Shorty reached across the table and touched Frank's hand. "We did make a little bit of noise, didn't we?" Shorty said. To which Frank replied, "A little bit."

Later, sitting in the car, Frank watched his brother make his way across the frozen puddles in the late-afternoon light and sighed. "You know, if I'd been a preacher, they would have been preachers. If I'd been a cop, they'd have been cops. But I was a dope dealer, so they became dope dealers . . . I don't

know . . . if I'd done right."

After a while, Frank and I stopped in for another beer. The surroundings were not plush. Frank said, "Shit . . . from King of the Hill to dumps like this."

The Knicks game was over, so we sat around for a few hours watching *The Black Rose*, an old sword-fight movie with Tyrone Power and Orson Welles. Welles is a favorite of Lucas's, "at least before he got too fat." Then, when it was time for me to go, Lucas insisted I call him when I got back to New York. It was late, rainy, and a long drive. Frank said he was worried about me. So, back in the city, driving down the FDR, by the 116th Street exit, I called Lucas up, as arranged.

"You're back, that's good," the Country Boy croaked into the phone. "Watch out. I don't care what Giuliani says, New York is not so safe. You never know what you might find out there." Then Frank laughed that same chilling haint of a laugh, spilling out the car windows and onto the city streets beyond.

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Amorosa Affirmation Exhibit B

**UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF NEW YORK**

-----X
Louis Diaz, Gregory Korniloff and Jack Toal,
on behalf of themselves and as representatives
of the Class,

Civil Action No.08-CV-

Plaintiffs,

CLASS ACTION COMPLAINT

v.

NBC Universal, Inc.,

JURY TRIAL DEMANDED

Defendant.

-----X

CLASS ACTION COMPLAINT

Louis Diaz, Gregory Korniloff and Jack Toal, on their own behalf, and as representatives of the Class, Plaintiffs, by their attorneys, Dominic F. Amorosa and Carey & Associates LLC, bring this civil class action against Defendant NBC Universal, Inc. and respectfully allege the following upon information and belief:

INTRODUCTION

1. This class action involves a deliberate, callous and intentional defamation and libel *per se* against hundreds of honest, decent and courageous agents of the New York City Branch of the United States Drug Enforcement Administration, also known as the New York City Drug Enforcement Agency (“**DEA**”) by the

defendant, NBC Universal, Inc. (“**NBC Universal**”) through its wholly owned movie studio, Universal Studios. The defamation was motivated by greed and financial gain. The defendant, NBC Universal, has refused to retract the defamation, and has offered false denials for its conduct. The defamation and libel are of the most egregious kind, adversely affecting the reputations for integrity and honesty of hundreds of DEA agents, who are the class members, and thereby damaging them in current trades and professions.

2. The defamation involved the defendant NBC Universal, through its Universal Studios, falsely communicating, in writing, to millions of people in a motion picture called American Gangster that three quarters of New York City’s DEA, from approximately 1973 through approximately 1985, were convicted criminals. With this utterly false and defamatory statement the defendant has ruined and impugned the reputations of these honest and courageous public servants in the eyes of millions of people who have already been exposed to this defamation and damaged them in their current trades and professions, and, if not stopped by an injunction, will further ruin and impugn their reputations in the eyes of millions more who are about to be exposed to the defamation, and will further damage them in their current trades and professions.

3. Defendant NBC Universal, through its Universal Studios, produced, released and distributed American Gangster to the public. American Gangster purports to

represent the alleged narcotics' trafficking activities of Frank Lucas who in the early 1970's, up until his arrest on January 28, 1975 by New York City's DEA, was a major narcotics' trafficker in the New York City area. As a result of his narcotics' trafficking, Lucas became a target of New York City's DEA and the United States Attorney's Office for the Southern District of New York ("USAO"). After an intensive investigation, New York City's DEA, assisted by officers of the New York City Police Department ("NYPD"), arrested Lucas on January 28, 1975 at this house in Teaneck, New Jersey. At the time of his arrest Lucas' house was lawfully searched pursuant to warrant and \$585,000 in currency was seized which had been derived from the sale of narcotics. Lucas was thereafter tried in September 1975 by the USAO, convicted and sentenced to 40 years' imprisonment. Subsequently, he cooperated with the USAO and with New York City's DEA and assisted in the apprehension and convictions of numerous other narcotics' traffickers. Lucas' cooperation, however, did not lead to the conviction of a single agent of New York City's DEA or member of the NYPD, or of any other law enforcement official in New York or elsewhere, ever.

4. American Gangster, which asserts it is based on "a true story", represents the above events falsely. It asserts that one Richard Roberts, a former law enforcement official in Newark, New Jersey, was the individual primarily responsible, together with others working in his squad, for investigating,

apprehending and prosecuting Lucas. American Gangster represents that it was with Roberts that Lucas cooperated after his arrest in the investigation of other criminality. American Gangster represents the search of Lucas' house on January 28, 1975, actually conducted lawfully by New York City's DEA and NYPD officers, referred to above, in the most awful and corrupt manner during which Lucas' wife was assaulted, his dog shot in a vicious manner, and hundreds of thousands of dollars stolen by corrupt law enforcement officials. American Gangster falsely represents that Lucas cooperated with Roberts in causing the convictions of the corrupt law enforcement officials who searched his house on January 28, 1975. American Gangster falsely represents that Lucas not only cooperated with Roberts in investigating corrupt law enforcement officers, but, in a legend that appears at the end of the film, falsely states as a fact that this **“collaboration led to the convictions of three quarters of New York City's Drug Enforcement Agency.”** This legend is false, defamatory and libelous *per se*. No such thing ever occurred. Not a single agent of New York City's DEA, or any other law enforcement officer, was convicted of anything based upon the so-called “collaboration” of Lucas and Roberts. Nor was a single agent of New York City's DEA or officer of the NYPD convicted in any case or investigation involving Frank Lucas whether based upon a collaboration of Lucas and Roberts or any other resource.

5. This shockingly false legend was designed to give credence to the factual allegations of American Gangster, to validate American Gangster's claim that it was "based upon a true story", to induce critics to recommend it to the public, to induce the public to pay to view it, and to further induce the public to believe the events shockingly and falsely depicted (to the effect that corruption among law enforcement authorities investigating Lucas was rampant, and included the officers who searched his house, assaulted his wife, shot his dog and stole hundreds of thousands of dollars from him) were in fact true, when they were in fact untrue. Defendant's clever scheme, in essence a scheme to defraud the public at the expense of Special Agents of New York City's DEA, was in fact successful. Millions of people were induced to pay for viewing this film who would not have paid had they known the truth, that is, that the movie is riddled with falsity and that not a single Special Agent or employee of the New York City DEA, or officer of the NYPD, was convicted as a result of the so called "collaboration" of Lucas and Roberts. The whole premise of American Gangster would have been eviscerated if the truth were revealed, and the defendant would not have made the money it did make if the libel was not made.

6. As a result of viewing American Gangster, millions of people now believe an awful falsity: that these law enforcement officials, DEA and NYPD officers, who searched Lucas' house, in addition to their colleagues, were brutally corrupt

and were convicted for this corruption as a result of the so called “collaboration” of Lucas and Roberts. Hundreds of honest and courageous DEA Special Agents who risked their lives on a daily basis on the streets of New York City in the 1970’s and 1980’s have been deliberately defamed, libeled and slandered in the eyes of millions, and damaged in their current trades and professions, by defendants in a reckless, ruthless and malicious effort to make hundreds of millions of dollars. An injunction barring further distribution of this motion picture with this false legend must issue to prevent further irreparable harm to these courageous and honest former and present public servants by preventing millions of others from viewing the lie that three quarters of them are convicted felons. Defendant must also be ordered to compensate Plaintiffs and the Plaintiff Class for the harm caused.

CLASS ACTION ALLEGATIONS

7. Plaintiffs sue on their own behalf and as representatives of the Class which is comprised of approximately 400 present and former Special Agents of the New York City DEA each of whom was employed at some time during the period from 1973 through 1985.
8. The class is so numerous that joinder of all members is impracticable.
9. There are questions of law and fact common to the class. The predominant questions of law and fact include, among others, whether:

- (a) Defendant has libeled and defamed all of the Special Agents of New York City's DEA from 1973 through 1985 by its written publication as a fact in American Gangster that Lucas' and Roberts' "collaboration led to the convictions of three quarters of New York City's Drug Enforcement Agency".
- (b) Defendant has intentionally or negligently inflicted severe emotional distress upon all members of the class by this false assertion.
- (c) Class members have been damaged, the extent to which members of the Class have sustained damages, and what is the proper measure of those damages in excess of \$5,000,000.
- (d) Class members have suffered and continue to suffer irreparable harm as a result of the false legend published to the world in American Gangster and its refusal to retract the defamatory and false statement in American Gangster that three quarters of the class were convicted of crimes based upon the "collaboration" of Lucas and Roberts.

10. Plaintiffs do not have any interests that are adverse or antagonistic to the class and are committed to the vigorous prosecution of this action and have retained competent counsel to proceed with the prosecution.

JURISDICTION AND VENUE

11. The Court has diversity jurisdiction of this class action pursuant to Title 28,

USC, Section 1332(d) since this is a class action and the matter in controversy exceeds the sum of \$5,000,000 exclusive of interest and costs, and is a class action in which a single member of the class is a citizen of a different state from that of the defendant.

12. The Court, alternatively, has jurisdiction of the Plaintiffs' Complaint, independent of the Class action, pursuant to Title 28, USC, Section 1332(a), under its diversity jurisdiction as Plaintiffs are citizens of different states from defendant and the amount in controversy for the three individual Plaintiffs is in excess of \$75,000 exclusive of interests and costs.

13. Venue is proper in this District, pursuant to Title 28, USC Section 1391(a)(1) and (c), as defendant NBC Universal resides in New York, New York where its principal place of business is located, and pursuant to Section 1391(a)(2), as a substantial part of the events giving rise to the cause of action in this District, and as American Gangster was distributed to many thousands of people in this District.

THE PARTIES

14. Defendant, NBC Universal, is a Delaware corporation with its principal place of business in New York, New York.

15. Plaintiff Jack Toal is a former Special Agent of the New York City DEA,

having been employed in that position from 1969 to 1982. He is a resident of the State of Florida

16. Plaintiff Gregory Korniloff is a former Special Agent of the New York City DEA, having been employed in that position from 1971 to 1978. He is a resident of the State of Nevada.

17. Plaintiff Louis Diaz is a former Special Agent of the New York City DEA, having been employed in that position from 1975 to 1985. He is a resident of the State of California.

DETAILED ALLEGATIONS

18. Defendant NBC Universal is in the business, among other things, of producing, releasing and distributing motion pictures to the public throughout the world.

19. On or about November 2, 2007, defendant NBC Universal released and distributed a motion picture to the public called American Gangster.

20. American Gangster has been distributed and shown in movie theaters in every state in the United States, as well as in this District.

21. American Gangster has been seen by millions of people and defendant is seeking to have it seen by millions more, including by means of DVD sales. It has grossed at least \$127,000,000 in profits for the defendant, excluding profits made

through secondary businesses.

22. American Gangster purports to represent the narcotics' trafficking activities of Frank Lucas. In the early 1970's, up until his arrest by New York City DEA agents and NYPD officers on January 28, 1975, Lucas was a major narcotics' trafficker in the New York City area.

23. On January 28, 1975, Lucas was arrested at his home in Teaneck, New Jersey by New York City DEA agents and officers of the NYPD. At the time of his arrest, Lucas' house was searched pursuant to a valid search warrant and \$585,000 in currency was seized. The search was carried out in an entirely legal manner. Gregory Korniloff, a Plaintiff herein and a representative of the Class, was the New York City DEA case agent on the Lucas investigation and was present during the search of Lucas' house, and participated in the arrest of Lucas.

24. Lucas was prosecuted by the USAO in the SDNY, was tried in September 1975, and was sentenced to 40 years' imprisonment.

25. At the time, there were media reports of the Lucas case, including the facts relating to the search of Lucas' house by New York City DEA and the NYPD.

26. Following his conviction, Lucas began to cooperate with New York City DEA and with the USAO in the SDNY in their efforts to apprehend and prosecute other narcotics' traffickers. In this respect his cooperation was substantial.

27. Lucas' cooperation did not lead to the conviction of a single agent of New York City's DEA, or of any other law enforcement officer, including officers employed with the New York City Special Investigations Unit.

28. Not a single DEA agent or employee in New York or elsewhere was ever convicted of anything in connection with Lucas' narcotics activities.

29. Defendant NBC Universal was aware of this, or recklessly ignored evidence of it, prior to releasing American Gangster to the public.

30. American Gangster represents the search of Lucas' house in the most awful manner during which Lucas' wife was assaulted, his dog shot in a vicious manner and all his currency stolen by corrupt law enforcement officers identified as members of the New York City Special Investigations Unit. All of these depictions are untrue.

31. The New York Special Investigations Unit had nothing to do with the arrest and prosecution of Lucas, and not a single Officer of the Special Investigations Unit was convicted of anything as a result of Lucas' cooperation with anyone.

32. American Gangster is riddled with other false representations with respect to corruption by law enforcement officials investigating Lucas.

33. American Gangster falsely represents the role of one Richard Roberts, a then law enforcement officer in New Jersey, in the investigation, apprehension and

prosecution of Lucas.

34. American Gangster falsely represents that Roberts and his squad were primarily responsible for Lucas' arrest and prosecution, whereas it was New York City's DEA and the USAO which were responsible for Lucas arrest and prosecution. Roberts was involved in a secondary prosecution of Lucas in New Jersey which followed Lucas' arrest and prosecution in the USAO.

35. American Gangster represents that after Lucas' arrest, he cooperated with Roberts in the prosecution of corrupt law enforcement officers, including cooperation against the officers who were alleged to corruptly search Lucas' house. As noted, Lucas' house was lawfully searched.

36. American Gangster falsely suggests that Lucas was a victim of a corrupt law enforcement system and leaves the impression that Lucas should be commended for his "collaboration" with Roberts in clearing up the corruption within New York City's DEA.

37. At the very end of American Gangster, a written legend appears on the screen that was designed by defendant to emphasize the "truth" of the various allegations made in the film.

38. The legend states that Roberts and Lucas' **"collaboration led to the convictions of three quarters of New York City's Drug Enforcement Agency"**.

39. This representation is an utter and complete falsity. Roberts and Lucas' "collaboration" did not lead to the convictions of three quarters of the New York City's Drug Enforcement Agency.

40. Roberts and Lucas' "collaboration" did not lead to the conviction of a single DEA agent or employee or of any other New York law enforcement official, including representatives of the Special Investigations Unit.

41. The written legend at the end of American Gangster is false and defames Plaintiffs and the Plaintiff Class.

42. On November 23, 2007, counsel for plaintiff Gregory Korniloff, wrote to the Universal Studios, owned by Defendant, demanding that the false legend be removed from further distribution of American Gangster. A copy of this letter is attached to this Complaint as Exhibit 1 and incorporated by reference herein.

43. On December 7, 2007, David L. Burg, Senior Vice President of NBC Universal, wrote to Mr. Korniloff's counsel rejecting his demand. A copy of Mr. Burg's letter is attached here as Exhibit 2 and incorporated by reference herein.

44. One of Mr. Burg's assertions in his letter of December 7, 2007 is that the "corrupt law enforcement officers portrayed in the film are specifically identified as members of the New York City Police Department, and the film refers to their subsequent prosecution by the federal government".

45. This assertion, like the legend itself, is false. There was not a single member of the New York City Police Department so prosecuted by the federal government or any other government. Nor was there any Agency of the NYPD known as New York City's Drug Enforcement Agency, the agency alleged in the legend to have had three quarters of its members convicted. The only entity known as New York City's Drug Enforcement Agency is DEA.

46. Other than DEA, there has never been a New York City Drug Enforcement Agency, federal or state. Nor has there ever been a DEA agent convicted of anything relating to the narcotics' activities of Lucas.

47. Defendant has made millions of dollars in profits from distributing American Gangster after the retraction was demanded, further demonstrating its malice and willfulness in its original release.

48. Before it published it to the world, Defendant was well aware that the legend was false or recklessly ignored evidence that it was false.

49. A simple Google search of "New York City Drug Enforcement Agency" conducted on December 20, 2007 produced hundreds of thousands of hits. The first hit was the address of DEA Headquarters in Manhattan. Almost all of the first 100 hits identify this entity with the United States Drug Enforcement Administration, or DEA.

50. New York City's Drug Enforcement Agency is identical in the minds of the public with New York City's DEA, and defendant was aware, or recklessly disregarded evidence of this, before it published the false legend.

51. Millions of people who saw the film and read the legend came to believe that three quarters of New York City's DEA in this period were convicted for corruption.

52. This false legend was designed in part to induce the public to purchase tickets to view American Gangster by giving the false appearance to the public, and to critics reviewing the film for the public, that American Gangster's representations of corrupt law enforcement activities with respect to Lucas were factual when they were not factual.

53. The false legend was designed in part to validate the claim made in American Gangster that it was "based upon a true story".

54. The false legend was also designed to induce the public to believe the events shockingly and falsely depicted in American Gangster (that corruption among law enforcement authorities investigating Lucas was rampant, and included the agents and officers who searched his house, assaulted his wife, shot his dog and stole hundreds of thousands of dollars from him) were in fact true, when they were not.

55. People who have seen American Gangster have reported to others that it was

a good film and depicted the corruption of numerous members of New York City's DEA who were convicted as a result of the "collaboration" of Lucas with Richard Roberts.

56. Defendant's deliberate scheme to falsify the facts, and to make the public believe the falsity, in order to have them pay to view the film, has been very successful. The false legend made money for defendant that it would not have made if the false legend were not published.

57. Millions of people who have seen the film were induced to see it based in part upon the libel that Lucas and Roberts' "collaboration" led to the convictions of three quarters of New York City's DEA.

58. Millions of viewers of this film now believe that the law enforcement authorities who in fact searched Lucas' house, who were honest and courageous New York City DEA Agents and officers of the NYPD, were brutally corrupt and were convicted for this corruption as a result of the so called "collaboration" of Lucas with Roberts.

59. Hundreds of honest and courageous New York City DEA Agents who risked their lives on a daily basis on the streets of New York City in the 1970's have been deliberately defamed, libeled and slandered in the eyes of millions, and damaged in their current trades and professions, by the defendant in a reckless and ruthless and

malicious effort to make millions of dollars.

60. Approximately 20 soldiers stationed in Iraq who saw the American Gangster recently questioned a former Special Agent of New York City's DEA about the legend after they saw the film. The former New York City DEA agent is now also stationed in Iraq and is a member of the Class. This former New York City DEA agent is on a leave of absence from his employment with the Suffolk County Prosecutor's Office. The soldiers all understood the legend to refer to convictions of Special Agents of DEA, and asked the former agent of DEA how it came about that three quarters of the New York City DEA were convicted criminals. Although the former New York City DEA agent told these soldiers the truth, that no such thing had happened, he felt deeply hurt and embarrassed by the questions even though he knew the legend was false. Although he explained the truth to the soldiers, his affidavit states that he could not "explain it to the millions of others who have seen this lie and also believed it to be true."

61. Some members of the Plaintiff Class are currently employed as private investigators and defendant's false statement, asserted as fact, damages them in their trade and profession.

62. Many members of the Plaintiff Class have current employment and defendant's false and defamatory legend in American Gangster not only harms

their reputations, but it also damages them in that employment.

FIRST CAUSE OF ACTION

LIBEL PER SE

63. Paragraphs 1 through 62 of this Complaint are hereby incorporated by reference herein.

64. The legend appearing at the end of American Gangster that Lucas and Roberts' "collaboration led to the convictions of three quarters of New York City's Drug Enforcement Agency" is false, untrue, defamatory and libelous per se and on its face.

65. There can be no more harmful lie than to say that a law enforcement officer has been convicted of corruption.

66. The false statement exposes Plaintiffs and the Plaintiff Class to hatred, contempt and ridicule because it falsely depicts them as convicted criminals when in actual fact they are honest and courageous former and current law enforcement officers.

67. Many of the class members have active employment, including employment with the DEA and in other law enforcement agencies and security companies. Defendant's publication of this false, defamatory and libelous statement to the world has damaged them in this employment.

68. Defendant caused the libelous statement to be published to the world knowingly and willfully as a fact either with knowledge of its falsity or with reckless disregard for its truth.

69. Defendant refused Plaintiffs' demand that it retract the false statement from further release to the public.

70. The defamatory statement was not privileged in any manner.

71. The statement was intended to injure Plaintiffs and the Plaintiff Class in their reputations, character and businesses and in fact did so.

72. As a direct and proximate cause of defendant's libel, Plaintiffs and the Plaintiff Class have been damaged in an amount to be determined at trial but in excess of \$5,000,000 exclusive of interests and costs.

**SECOND CAUSE OF ACTION
INTENTIONAL INFLICTION OF EMOTIONAL
DISTRESS**

73. All of the allegations of paragraphs 1 to 72 of this Complaint are hereby incorporated by reference herein.

74. Defendant intentionally caused Plaintiffs and the Plaintiff Class humiliation, ridicule, and mental anguish, and its refusal to retract the false legend has aggravated the harm caused, as millions of many people have seen the film after a retraction was demanded and denied by defendant.

75. The false statement in the legend and the entire film was meant to expose, and did in fact expose, Plaintiffs and the Plaintiff Class to humiliation, hatred, contempt and ridicule.

76. As a direct and proximate cause of the false statement and publication, Plaintiffs and the Plaintiff Class have suffered damages in the form of severe emotional distress in an amount not less than \$5,000,000.

**THIRD CAUSE OF ACTION
NEGLIGENT INFLICTION OF EMOTIONAL
DISTRESS**

77. All of the allegations of Paragraphs 1 to 76 of this Complaint are hereby incorporated by reference herein.

78. Plaintiffs and the Plaintiff Class were owed a duty by Defendant to use reasonable care in writing and publishing to the world the motion picture, American Gangster, and the factual assertions made in it.

79. It was foreseeable to Defendant that a false statement alleging that three quarters of Plaintiff Class were convicted felons would damage their reputations, defame them, and injure them in their employment.

80. Defendant breached this duty of care by publishing as a fact the false statement that Lucas and Roberts' "collaboration led to the convictions of three quarters of New York City's Drug Enforcement Agency".

81. Defendant knew or should have known that the legend was false in its entirety and knew that the failure to exercise due care in publishing American Gangster to the world would cause Plaintiffs and the Plaintiff Class severe emotional distress and other injuries.

82. As a direct and proximate cause of this breach, Plaintiffs and the Plaintiff Class have suffered damages in the form of severe emotional distress and mental suffering in an amount not less than \$5,000,000.

FOURTH CAUSE OF ACTION INJUNCTION

83. All of the allegations of Paragraphs 1 to 82 of this Complaint are hereby incorporated by reference herein.

84. Plaintiffs and the Plaintiff Class, and the public in general, have suffered and will continue to suffer irreparable harm from the publication of the false legend.

85. Plaintiffs and the Plaintiff Class have and will continue to suffer damage to their reputations for honesty and good character and will suffer a diminution of, or lose entirely, their ability to hold and find employment as present and former law enforcement agents of the federal government.

86. The defamation in American Gangster has undermined and will continue to undermine the trust that the public has a right to repose in the government agents whose job it is to protect them from the illicit narcotics trade and other criminal

activity.

87. Plaintiffs and the Plaintiff Class will succeed on the merits of this action.

88. The false legend contains a libel *per se* that is incontrovertibly false.

89. NBC Universal was aware of the falsity of the false legend before it was first published or recklessly disregarded whether or not it was true.

90. NBC Universal, having been advised of the falsity of the legend, nevertheless continued to publish it for profit.

91. NBC Universal acted negligently.

92. NBC Universal acted with malice.

93. There is no adequate remedy at law.

94. For the libel that has already occurred, the only effective remedy will be an order directing NBC Universal to advertise to the same extent and by the same means it advertised the movie and the false legend a retraction of the false legend and a statement to the effect that no member of the Plaintiff Class was ever found guilty of any criminal offense related to Frank Lucas or to the events depicted in American Gangster.

95. To prevent NBC Universal from continuing to harm the Plaintiff Class in the future, the only effective remedy will be an order directing NBC Universal to

strike the false legend from every copy of American Gangster that is shown, or may be shown, in the future, by every means, worldwide, and to replace it with the legend described in the preceding paragraph.

DEMAND FOR JUDGMENT

Therefore, Plaintiffs and the Plaintiff Class demand judgment against defendant for the following relief, plus costs:

- a. Ordering a preliminary and permanent injunction enjoining and restraining defendant, and all its officers and agents, servants, and employees, and all those persons in active concert or participation with them from directly or indirectly using, distributing or showing American Gangster to anyone else with the false legend;
- b. Ordering the defendant to recall each copy of American Gangster that contains the false legend;
- c. Ordering that defendant immediately deliver up all signs, prints, packages, and advertisements in its possession or under its control bearing the false legend;
- d. Ordering restitution of all moneys obtained directly or indirectly by defendant by means of this improper conduct;

- e. Ordering defendant to disgorge all its profits from American Gangster;
- f. Ordering defendant to publish in the same media outlets in which it defamed Plaintiffs and the Plaintiff Class the truth about the New York City DEA's role in the investigation, arrest and prosecution of Frank Lucas;
- g. With respect to each cause of action awarding compensatory damages in an amount to be determined at trial, but at least in an amount of \$5,000,000 exclusive of interests and costs;
- h. With respect to the first and second cause of action awarding punitive damages of \$50,000.000;
- i. Awarding prejudgment interest pursuant to Title 28, USC Section 1961(a);
- j. Awarding costs and attorneys' fees in an amount to be determined at trial;

- k. Awarding such other relief, legal or equitable, that the Court
deems proper and just.

Dated: January 15, 2008

Respectfully submitted,

/s/ Dominic F. Amorosa
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Exhibit 1

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November 23, 2007

Maren Christensen
Executive Vice President and General Counsel
Universal Studios
100 Universal City Plaza
Universal City, CA 91608

Dear Ms Christensen:

I am writing to demand that you retract and correct immediately the false and defamatory statement published as fact to the world at the end of *AMERICAN GANGSTER*, a product of Universal Studios, that Frank Lucas and Richard Roberts' "collaboration led to the convictions of _ of the New York City's Drug Enforcement Agency". They were responsible for no such thing and in fact no such thing ever occurred. This false statement impugns and damages the reputations of hundreds of honest, decent and courageous agents of the New York City Drug Enforcement Administration ("DEA") who risked their lives daily on the streets

of New York in this period of time bringing to justice people like Frank Lucas and Nicky Barnes. Further, it was DEA, together with the United States Attorney's Office for the Southern District of New York ("USAO"), which apprehended, prosecuted and tried Frank Lucas and his suppliers, and not Richard Roberts and some Essex County law enforcement organization, as is alleged in *AMERICAN GANGSTER*. The New Jersey prosecution of Frank Lucas in which Roberts was involved took place over one year after Lucas was prosecuted in the Southern District of New York in September 1975 in which he was sentenced to 40 years' imprisonment.

It is far more than ironic for *AMERICAN GANGSTER* to deprive New York City's DEA and the USAO of credit for apprehending and prosecuting Lucas and his gang while at the same time smearing DEA agents with false allegations of corruption: it is actionable, and it is actionable on behalf of a whole class of DEA agents.

I represent Gregory Korniloff, a former New York City DEA Agent. Mr. Korniloff was the case agent for DEA on Lucas' federal case and personally participated in the search of Lucas' house conducted in January 1975 pursuant to a valid federal search warrant, and the arrest of Lucas on that same day. During this search \$585,000.00 in currency was seized, which was later physically introduced into evidence during Lucas' federal criminal trial in the Southern District of New York in September 1975. *AMERICAN GANGSTER* represents this search in the most awful and corrupt manner during which Lucas' wife was assaulted, his dog shot in a vicious manner and thousands of dollars stolen by corrupt law enforcement officers portraying Mr. Korniloff and his colleagues, including other DEA Agents and officers of the NYPD, who assisted him on that day. It is irrelevant to your liability that you represent the corrupt officers to be associated with New York City's Special Investigations Unit. This organization was

disbanded long before Lucas came on the scene as a major narcotics dealer in New York, and was in no way associated with the investigation of Lucas. The public knows full well that it was Mr. Korniloff and his colleagues who searched Lucas' home and, as a result of false depiction made in *AMERICAN GANGSTER*, now believe it was they who engaged in these egregious acts. *AMERICAN GANGSTER*'S final, gratuitous, maliciously false statement, placed in writing on the screen at the end of the movie for "truthful" emphasis, that Roberts and Lucas' "collaboration led to the convictions of _ of New York City's Drug Enforcement Agency", demonstrates that this libel of Mr. Korniloff and his colleagues was exactly what you intended. While you may have the right to dramatize actual events, this right does not extend to destroying the reputations of honest and courageous public servants by deliberately misrepresenting the facts.

Moreover, apart from defamation, *AMERICAN GANGSTER* falsely attributes to Roberts and New Jersey law enforcement authorities admirable acts and conduct that were engaged in not by them, but by DEA agents. As noted, it was not Roberts or his "unit" which arrested Lucas in January 1975; it was DEA. It was not Roberts who first prosecuted Lucas; it was the USAO in the SDNY in September 1975. I have personal knowledge of these facts as I personally led the federal prosecution of Lucas and his 18 co-defendants in September 1975. After his 40-year sentence was imposed it was not Roberts with whom Lucas cooperated. It was with the USAO and DEA. And, most importantly, Lucas' cooperation had nothing to do with incriminating law enforcement officials and certainly not members of the Special Investigations Unit. Lucas' cooperation, which admittedly was substantial, was aimed at other narcotics dealers, not law enforcement officers.

AMERICAN GANGSTER is riddled with false information. Its depiction of heroin being supplied to Lucas from Southeast Asia by means of the coffins of dead GI's is also false. No such thing

happened. If you had labeled your movie as fiction, it would have been one thing. But to claim it is based upon fact, as you do, is quite another. It is certainly no defense for you to assert that Lucas told you these events occurred, which I understand he has been doing of late. For even the most cursory investigation would have established that such a false assertion was made to increase the likelihood that his "story" would be purchased by you. Of course you already know this. The same applies to Lucas' assertion that millions and millions of dollars in currency were stolen from his house during the search. This too was easily proven to be false. When I debriefed Lucas following his decision to cooperate, he told me that he had no idea how much money he had at his house, that it was a week or a weekend's receipts from his narcotics business and that \$585,000 sounded right. This is documented throughout his case for anyone who really wanted to know it.

AMERICAN GANGSTER'S false depiction of actual events and its attribution to others of courageous acts engaged in by DEA agents deprive these individuals of their property rights. You have profited enormously based on these false and defamatory statements at the expense of the individuals who actually were responsible for apprehending Lucas and his gang at great risk to their lives.

Please contact me at your earliest convenience. However, I suggest you immediately cause the false statement at the end of the film to be removed from further distribution.

Sincerely,

Dominic F. Amorosa

cc: Richard Cotton
Executive Vice President and General Counsel
NBC Universal

Jeff Zucker
President and CEO
NBC Universal

Exhibit 2



DAVID L BURG
Senior Vice President, Litigation

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tel 818-777-1856
fax 818-866-2166
david.burg@nbcuni.com

December 7, 2007

VIA EMAIL: lawoffices@dfamorosa.com
AND FIRST CLASS MAIL

Dominic F. Amorosa, Esq.
95 Worth Street
New York, New York 10013

Re: American Gangster

Dear Mr. Amorosa:

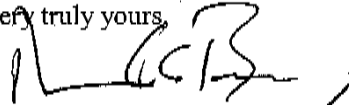
Your letter to Maren Christensen of November 23, 2007 has been forwarded to me for response.

We have carefully reviewed your letter and do not believe anything in *American Gangster* -- including the end card legend you mentioned -- can reasonably be construed to defame or otherwise harm your client, Gregory Korniloff, or other former agents of the federal Drug Enforcement Administration. As you noted, the legend refers to "New York City's Drug Enforcement Agency" rather than the federal DEA. Indeed, the film -- which is a fictionalized work based on actual events -- does not address the federal prosecution of Mr. Lucas in which you and Mr. Korniloff apparently participated. Rather, the film dramatizes the prosecution of Mr. Lucas by the State of New Jersey and focuses exclusively on the activities of municipal and state law enforcement personnel. Moreover, the corrupt law enforcement officers portrayed in the film are specifically identified as members of the New York City Police Department, and the film refers to their subsequent prosecution by the federal government. The film in no way charges or even insinuates wrongdoing on the part of the federal Drug Enforcement Administration. Thus, we must respectfully deny the claim of your client and other former federal DEA agents.

Dominic F. Amorosa, Esq.
December 7, 2007
Page 2

Please address any additional communication concerning this matter to me, and understand that Universal reserves all of its rights, remedies, and defenses. Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read "DLB", with a large, sweeping flourish extending to the right.

David L. Burg
Senior Vice President, Litigation

Amorosa Affirmation
Exhibit C

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Movies, actors, directors

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American Gangster: Theatrical Cut (2007)



In Queue



Average of raters like you: **4.3** stars
Average of 17,221 ratings: **4.1** stars

From director [Ridley Scott](#) (Gladiator, Blade Runner) comes this tense crime thriller, starring two-time Oscar winner [Denzel Washington](#) as true-life Harlem drug lord Frank Lucas. Oscar winner [Russell Crowe](#) co-stars as the dogged outcast NYPD cop charged with bringing Lucas down. [Cuba Gooding Jr.](#), [Josh Brolin](#) and [Chiwetel Ejiofor](#) lead the supporting cast in this powerhouse tale penned by Oscar winner Steven Zaillian (Schindler's List).

Releases on DVD Feb 19, 2008

WHY IS THIS RECOMMENDED

[Blood Diamond](#)[The Departed](#)

DETAILS

R For violence, pervasive drug content and language, nudity and sexuality

PARENTS: for 17+ ([more](#))

Length:
100 minutes

Director:
[Ridley Scott](#)

Cast:
[Denzel Washington](#) [Russell Crowe](#)
[Cuba Gooding Jr.](#) [Josh Brolin](#)
[RZA](#) [John Ortiz](#)
[John Hawkes](#) [Ted Levine](#)
[Yul Vazquez](#) [Carla Gugino](#)
[Norman Reedus](#) [Chiwetel Ejiofor](#)
[Kadee Strickland](#) [Roger Bart](#)
[Common](#)

Genres:
[Drama](#)
[Dramas Based on Real Life](#)
[Crime Dramas](#)
[20th Century Period Pieces](#)
[Period Pieces](#)
[HD DVD](#)

Other features:
Color; interactive menus; scene access; audio commentary.

ENJOYED BY MEMBERS WHO ENJOYED

[Blood Diamond](#)[The Last Legion](#)[The Heartbreak Kid](#)[The Kingdom](#)[Empire](#)

CRITIC REVIEWS

[Roger Ebert](#), [Chicago Sun-Times](#)

"This is an engrossing story, told smoothly and well, and Russell Crowe's contribution is enormous." ... [Read More](#)

[Wesley Morris](#), [Boston Globe](#)

"The entire movie is caught between being a work of seriousness and a work of absurdity." ... [Read More](#)

[Mick LaSalle](#), [San Francisco Chronicle](#)

"American Gangster is an enjoyable double character study, and the movie's length ultimately becomes an advantage." ... [Read More](#)

[See All 14 Critic Reviews](#)

MEMBER REVIEWS

Screen Formats:

Widescreen Anamorphic 1.78:1

[Write A Review](#)

Subtitles:

English, Spanish, French

Language and Sound:

English: Dolby Digital 5.1

Original Release Date:

2007

HD DVD	learn more
DVD	

Reviews Voted Most Helpful

Votes are counted and displayed within 24 hours



Dr.Film

59%

Similar To You



I don't usually give 5 stars but this film deserves it. Denzel Washington offers that same sense of protagonist/villain support that characters like Pacino's Scarface offers. We know he is leader one of the most ruthless and sophisticated mobs but he is charming and best of all a family man. However, as great as Washington was in this film, Crow is even better. He is a worthwhile nemesis by also being the everyman that you and I can empathize. He is successful through his persistence. This is not Gladiator or tough guy Russell Crow as the hero. The pace of the film is rapid and keeps your attention. The drawback to the film is the setting. There is nothing glamorous about 70's New York. It's dark, gritty and painfully ordinary. This is why fans have criticized this movie because it contains none of the elaborate backdrops found in other Ridley Scott films. There are no wild beasts or space carriers in site. Scott is always reminding viewers that this battle is fought through your homes and in a place reminiscent of any ordinary neighborhood....albeit a neighborhood with a huge mansion. I liked this film because this it captures what real bad guys are about. They are not these over-the-top and debonair mafia warlords like Don Corleone. They are intelligent people who prefer to keep their cover simple yet extremely organized and methodical.

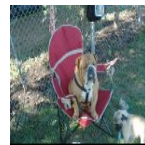
52 out of 74 people found this review helpful.

I found this review

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[Not Helpful](#)

[Flag This](#)



Ryan Lewis

51%

Similar To You



Movie was Awesome! Acting and script were both superb! Movie was long but kept my attention throughout the entire movie. I've read the book before I saw the movie so I knew the plot. I think its one of the top 5 movies of the year. Movies based on true events don't always come out as great stories for movies but this one took the cake. Kurt Russel and Denzel Washington were awesome, I don't think they could of picked better actors to play the part. Denzel in a full furcoat is priceless. I would give it 6 stars if I could. Its a must see

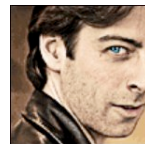
30 out of 45 people found this review helpful.

I found this review

[Helpful](#)

[Not Helpful](#)

[Flag This](#)



CineSamurai

— —%

Similar To You



Washington and Crowe deliver solid performances -- a necessity for this sprawling and sometimes-slow 2 hour 40 minute period crime epic. Extremely well-made and feeling very real the whole time, its fault lies in the even-keel, predictable unfolding of the story. There wasn't much build-up of tension, few moments of suspense, and a genuine lack of surprise. While the draw of the film is the two leads, you've seen them reach greater heights in plenty of other films.

24 out of 36 people found this review helpful.

I found this review

[Helpful](#)

[Not Helpful](#)

[Flag This](#)

Most Recent Reviews



TR 1955728





58%
Similar To You

[TR 1955728's other reviews >](#)

really. I love history, true stories, etc., and this was based on real people and billed as a true story. I knew there'd be dramatization, but I didn't know there'd be outright fabrication. Check wikipedia. I'm sure they'll have a section on the innacuracies. Shameful.

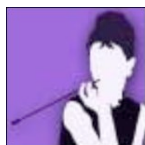
0 out of 3 people found this review helpful.

I found this review

Helpful

Not Helpful

Flag This



30%
Similar To You

[cooookie.'s other reviews >](#)

was a little violent, but the movie was just so good that i could get past that! LOVED IT! This is a must see.

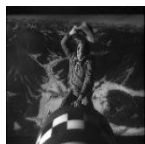
0 out of 1 people found this review helpful.

I found this review

Helpful

Not Helpful

Flag This



27%
Similar To You

[mr83's other reviews >](#)

2? "Goodfellas" was better--so was "Malcolm X."

I found this review

Helpful

Not Helpful

Flag This

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Your customer identification number is: [Click Here](#)

Amorosa Affirmation
Exhibit D

Authur W. Scalzo, Jr., being duly sworn, deposes and says:

1. I am a former Special Agent with the US Drug Enforcement Administration and served in such a capacity in New York City from approximately 1979 through 1985.
2. The New York City Branch Office of the Drug Enforcement Administration was also known to the public as the New York City DEA, or the New York City Drug Enforcement Agency.
3. I now live in Hauppauge, New York and am employed by the Suffolk County District Attorney's Office as a Supervisory Detective Investigator. However, for the last year I have been on leave from this position and have been embedded with the US Army in Iraq. I volunteered for a one year tour of duty with the US Army and have been assigned to investigate criminal and terrorist elements, in addition to teaching the US Infantry "combat law enforcement" in an effort to arrest and prosecute terrorist elements assaulting coalition forces in Iraq.
4. The movie, American Gangster, has been seen in Iraq. Approximately 20 US soldiers whom I serve with, who know I am a former DEA agent, have questioned me about the legend that appears at the end of the movie which states that Lucas and Richard Roberts' "collaboration led to the convictions of three quarters of New York City's Drug Enforcement Agency". All of these soldiers understood the legend to refer to agents with whom I served in New York City in the 1970's. In essence they have asked me how it came about that there could be so many corrupt agents working in DEA. I have been deeply hurt and embarrassed by these questions even though I know the legend to be false, and that not a single DEA agent was ever arrested, let alone convicted, of anything to do with Frank Lucas. I of course explained this to the soldiers. However, I cannot explain it to the millions of others who have seen this lie and also believed it to be true. I am certain that my reputation and the reputation of my colleagues have been damaged by this lie. I worked very hard in my life to establish a reputation for being an honest law enforcement officer, and it hurts to see this reputation damaged by this lie, along with the reputations of so many honest and courageous former agents

who risked their lives to enforce the narcotics' laws in the 1970's and 1980's.

5. I have personal knowledge that the legend is untrue as I worked on cases relating to Lucas' cooperation with our agency and the US Attorney's Office. This cooperation did not lead to the arrest or conviction of a single law enforcement official.

Arthur W. Scalzo, Jr. x

Sworn to before me on this ____ day of January 2008.

Amorosa Affirmation
Exhibit E

**UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF NEW YORK**

```
-----X
Louis Diaz, Gregory Korniloff, and :
Jack Toal, on their own behalf and :
as representatives of the Class,    :
                                   :   Civil Action No. 08-cv-00401 (CM)
      Plaintiffs,                  :
                                   :
      v.                           :
                                   :
NBC Universal, Inc.                :
                                   :
      Defendant.                   :
-----X
```

AFFIDAVIT OF GREGORY KORNILOFF


Gregory Korniloff, being duly sworn, deposes and says:

1. I am a member of Plaintiff Class in this case and am a named Plaintiff in the Class Action Complaint.
2. I reside in Las Vegas, Nevada and have done so for approximately 10 years.
3. I am currently employed as the Assistant Special Agent-in-Charge of the Federal Air Marshal Service, Las Vegas, Nevada Field Office.
4. From 1971 until 2003 I was employed by the United States Drug Enforcement Administration in various positions in different locations.
5. From 1971 through 1978, I was assigned to the New York City Office of the Drug Enforcement Administration. This Office was commonly known as New York City's DEA, or New York City's Drug Enforcement Agency by other law enforcement offices as well as narcotics' violators around the world and the general public.
6. In the early 1970's New York City's DEA participated in an investigation of the narcotics' activities of Frank Lucas. On January 28, 1975, I participated in the arrest of Lucas at his Teaneck, New Jersey home, as well as a search of that residence on that day by DEA and officers of the New York Police Department. I was in fact the case agent for DEA on the Lucas case at that time.
7. The search of Lucas' residence was conducted in a legal manner pursuant to a Federal search warrant by DEA agents, including myself, as well as officers of the New York Police Department who assisted DEA. Found and seized during the search was approximately \$585,000 in currency.
8. It was widely known at the time, as well as today, that DEA conducted the search of Lucas' residence together with officers of the NYPD.
9. The representations made in American Gangster that during this search Lucas' wife was assaulted, his dog shot and a large amount of currency stolen are false in their entirety. These false representations have caused me and my family much anxiety, as many people know that it was I and other agents of the DEA, along with officers of the

Grk 1/24/08
1/2

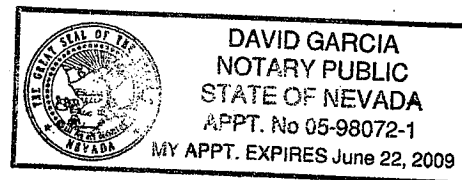
New York Police Department, who searched Lucas' house and seized a large amount of currency.

10. In September 1975 Lucas was tried and convicted in the United States District Court for the Southern District of New York for various narcotics' offenses and thereafter sentenced to 40 years' imprisonment for these crimes.


-----X
Gregory Korniloff

Sworn to before me on this 14 day of January, 2008

State of Nevada County of Clerk
Subscribed and sworn before me on 01-14-2008
David Garcia
(Date)
(Notary Signature)



Amorosa Affirmation
Exhibit F

**UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF NEW YORK**

```
-----X
Louis Diaz, Gregory Korniloff, and :
Jack Toal, on their own behalf and :
as representatives of the Class,    :
                                   :   Civil Action No. 08-cv-00401 (CM)
      Plaintiffs,                  :
                                   :
      v.                           :
                                   :
NBC Universal, Inc.                :
                                   :
      Defendant.                   :
-----X
```

AFFIDAVIT OF JACK TOAL

Jack Toal, having been duly sworn, deposes and says:

1. I am a member of Plaintiff Class in this case and I am a named Plaintiff in this case suing on my own behalf and as a representative of the Class in the Class Action Complaint.
2. I reside in Ft. Lauderdale, Florida and have done so for 11 years.
3. I am currently employed as a Private Investigator and have been so employed for 11 years.
4. From 1969 until 1996, I was employed by the United States Drug Enforcement Administration.
5. From 1969 until 1982, I was employed as a Special Agent of DEA in the New York City Office. This Office was commonly known throughout DEA, as well as the law enforcement community throughout the United States, and among narcotics' violators, and the general public, as the New York City DEA or New York City's Drug Enforcement Agency. From the mid 1970's until 1985, the New York City DEA was structured into groups of Special Agents. Each Group had a supervisor who reported to the Assistant Special Agent in Charge also known as the Assistant Regional Director,

who in turn reported to the Special Agent in Charge also known as the Regional Director. The Special Agent in Charge in turn reported to DEA headquarters in Washington, DC. In this period I estimate that there were at least 400 DEA agents at different times working in New York City, including all 5 boroughs. DEA had offices in Manhattan, JFK Airport and Long Island all reporting to the New York Office.

6. There was no agency known as New York City's Drug Enforcement Agency other than DEA. In fact the U.S. Congress and media have consistently referred to DEA as the "Drug Enforcement Agency". I have attached to this affidavit a printout from my computer showing the results of a search I performed on Google of the name "New York City Drug Enforcement Agency" on December 20, 2007, which shows that this Agency is identified with my former employer, DEA.
7. In approximately 1979, I met Frank Lucas. Lucas had already been convicted in the United States District Court for the Southern District of New York and sentenced to 40 years' imprisonment. At this time Lucas was serving a 40-year sentence and cooperating with DEA and the United States Attorney's Office for the Southern

District of New York. Over the next several years I spoke on numerous occasions with Lucas and he provided me with information with respect to his narcotics' activities and the activities of others. I became fully familiar with all aspects of Lucas's cooperation. Lucas' cooperation led to the convictions of other narcotics' traffickers. Lucas' cooperation or collaboration with me or anyone else did not lead to the conviction of a single DEA agent or employee. Nor did it lead to the conviction of a single officer of the New York Police Department, ever. In fact, Lucas never mentioned a corrupt DEA agent or NYPD officer to me in all the years that he reported to me.

8. Moreover, no DEA agent or NYPD officer was ever convicted in connection with the narcotics' activities of Lucas.
9. The legend that appears at the end of American Gangster, which I have seen, that Lucas and Richard Roberts' "collaboration led to the convictions of three quarters of New York City's Drug Enforcement Agency" is false in its entirety.
10. Following the release of American Gangster, I have had many conversations with other former agents of DEA with respect to the false legend that appears at the end of the film stating that Lucas'

and Roberts' "collaboration led to the convictions of three quarters of New York City's Drug Enforcement Agency". Every single one of the former DEA agents to whom I spoke informed me directly and/or indirectly that this false legend has damaged the reputation of DEA and the reputations of each and every agent of DEA, and especially those agents who were assigned to the New York City Office of DEA in the mid 1970's to the mid 1980's. They also informed me that this legend might also damage each of us in our current professions and employment, given the fact that it is falsely alleged that three quarters of us have been convicted for corrupt acts. This is my belief as well.

11. American Gangster represents the search of Lucas' house on January 28, 1975 in a disgraceful manner during which Lucas' wife was assaulted, his dog shot and a large amount of currency stolen by the officers who executed the search. While I was not present during this search, I am aware that it was conducted by New York City DEA agents along with officers of the New York Police Department. The scenes in the movie depicting this search in this terribly illegal manner, together with the false legend at the end of the movie, have caused me anxiety, to say the least, as many

of my friends and relatives are aware that I was working with New York City's Drug Enforcement Agency at this time.

12. I am aware that millions of people who have seen this movie believe that hundreds of former Special Agents of the New York Drug Enforcement Agency, including myself, are criminals. It is difficult to convey my anger and upset at this, it is so deep.
13. According to published reports, American Gangster has been seen by millions of people and has grossed at least \$127,000,000 since it was released on or about November 2, 2007. It continues to be advertised to the public and I have been told that many more millions of people are expected to view it. It has been mentioned in various news articles as being in line for Academy Award nominations.

Jack H. Toal x

Jack Toal

Sworn before me this 14 day of January, 2008



Lena Tranfa
My Commission DD360803
Expires January 19, 2009

Lena Tranfa

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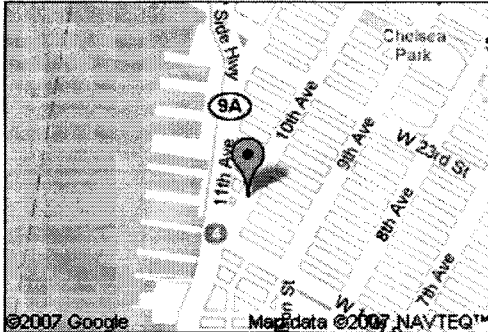
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Preferences

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US Drug Enforcement Administration

www.usdoj.gov

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New York, NY 10011
(212) 337-3900
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Drug Enforcement Administration Home

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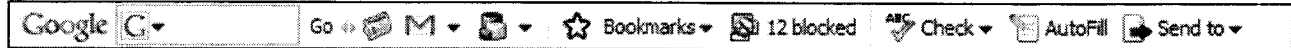
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opening remarks, the President referred to **New York City Police** ...
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**UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF NEW YORK**

-----X
Louis Diaz, Gregory Korniloff, and :
Jack Toal, on their own behalf and :
as representatives of the Class, :
: Civil Action No. 08-cv-00401(CM)
Plaintiffs, :
:
v. :
:
NBC Universal, Inc. :
:
Defendant. :
-----X

ORDER TO SHOW CAUSE

UPON the affirmation of Dominic F. Amorosa, Esq., executed January 22, 2008, upon the affidavit of Arthur W. Scalzo, sworn to January ____, 2008, the affidavit of Gregory Korniloff, sworn to January 14, 2008, the affidavit of Jack Toal, sworn to January 14, 2008, and the attached exhibits attached to each affidavit, including the copy of the class action complaint; and

UPON the memorandum of law in support of the application for a temporary restraining order and a preliminary injunction;

NOW, upon the motion by plaintiffs, it is:

ORDERED that NBC Universal, Inc. ("**NBC Universal**") show cause before a motion term of this Court, at Room ____, United States Courthouse, 500 Pearl Street, in the City, County and State of New York, on the ____ day of January, 2008 at ____ o'clock in the ____ noon of that day or as soon thereafter as

counsel may be heard ("**Return Date**"), why this Court should not enter a temporary restraining order, pending a hearing for a preliminary injunction, pursuant to Rule 65, Federal Rules of Civil Procedure ("**F.R.Civ.P.**"), enjoining NBC Universal, and all its officers and agents, servants, employees, and attorneys, and all those persons in active concert or participation with them, who receive actual notice of the order by personal service or otherwise, from

- (a) Directly or indirectly using, distributing or showing American Gangster with the legend, or any part of the legend, or otherwise conveying all or any part of the statement:

"Frank and Richie's collaboration led to the convictions of three quarters of New York City's Drug Enforcement Agency." ("False Legend"); and

- (b) Directly or indirectly using, distributing, or showing any signs, prints, packages, and advertisements bearing all or any part of the False Legend;
- (c) Commingling with revenues from other sources than American Gangster, or disbursing the revenues generated by American Gangster, earned while the False Legend or any part of the False Legend was or continues to be advertised, used, distributed or shown in relation to American Gangster.

ORDERED that personal service of a copy of this order, together with the papers upon which it was granted, upon counsel for NBC Universal by priority overnight Federal Express or similar overnight courier service by deposit with the service on or before the ____ day of January 2008, shall be deemed good and sufficient service; and it is further

ORDERED that NBC Universal shall deliver its responding

papers, if any, to the attorneys for plaintiffs, by e-mail, fax, personal delivery, or overnight courier to arrive no later than 5:00 P.M. on the _____ business day preceding the Return Date; and it is further

ORDERED that plaintiffs shall deliver their reply papers, if any, to the attorneys for NBC Universal, by e-mail, fax, personal delivery, or overnight courier to arrive no later than 5:00 P.M. on the _____ business day preceding the Return Date.

Issued: New York, New York

January ____, 2008, _____ M

United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF NEW YORK

-----X
Louis Diaz, Gregory Korniloff, and :
Jack Toal, on their own behalf and :
as representatives of the Class, :
Plaintiffs, : Civil Action No. 08-cv-00401(CM)
v. :
NBC Universal, Inc. :
Defendant. :
-----X

AFFIDAVIT OF SERVICE

State of New York)
County of New York) ss.:

Alexander Q. Carey, being duly sworn, deposes and says:

1. I am not a party to the action, am over the age of eighteen and reside in New York County.

2. On January 23, 2008, I served by e-mail

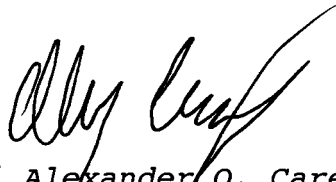
- a) Affidavit of Dominic F. Amorosa, sworn to January 22, 2008 with exhibits;
- b) Memorandum of Law, dated January 22, 2008; and
- c) A proposed Order to Show Cause,

to the following e-mail addresses:

Shannon.Alexander@nbcuni.com (Shannon Alexander
NBC Universal Inc.), and

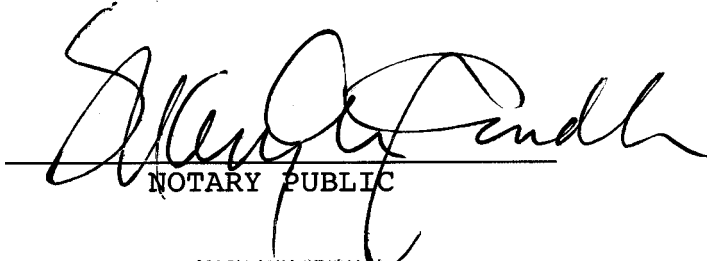
kellisager@dwt.com (Kelli Sager counsel to NBC).

Dated: February 15, 2008



/s/ Alexander Q. Carey
ALEXANDER Q. CAREY

Sworn to before me this 15th
day of February 2008



NOTARY PUBLIC

MARY ANN CRISALLI
NOTARY PUBLIC, State of New York
No. 24-4905366
Qualified in Kings County
Commission Expires September 14, 2009